FOSTER CARE, CHILD WELFARE, AND ADOPTION REFORMS

JOINT HEARINGS

BEFORE THE

SUBCOMMITTEE ON PUBLIC ASSISTANCE
AND UNEMPLOYMENT COMPENSATION

OF THE

COMMITTEE ON WAYS AND MEANS

AND

SELECT COMMITTEE ON CHILDREN,
YOUTH, AND FAMILIES
HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

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FOSTER CARE, CHILD WELFARE, AND ADOPTION REFORMS

WEDNESDAY, APRIL 13, 1988

House of Representatives, Committee on Ways and Means, Subcommittee on Public Assistance and Unemployment Compensation; and the Select Committee on Children, Youth, and Families,

Washington, DC.

The committees met, pursuant to notice at 10:06 a.m., in room 1100, Longworth House Office Building, Hon. Thomas J. Downey (acting chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means) and Hon. George Miller (chairman of the Select Committee on Children, Youth, and Families) presiding.

[The press releases announcing the hearings follow:]

FOR IMMEDIATE RELEASE
FRIDAY, MARCH 18, 1988

PR #11
SUBCOMMITTEE ON PUBLIC ASSISTANCE
AND UNEMPLOYMENT COMPENSATION
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE THOMAS J. DOWNEY (D., N.Y.), ACTING CHAIRMAN, SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION, COMMITTEE ON WAYS AND MEANS, AND THE HONORABLE GEORGE MILLER (D., CALIF.), CHAIRMAN, SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCE A JOINT HEARING ON FOSTER CARE, CHILD WELFARE AND ADOPTION REFORMS

The Honorable Thomas J. Downey, Acting Chairman, Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, and the Honorable George Miller, Chairman, Select Committee on Children, Youth, and Families, U.S. House of Representatives today announced joint hearings on foster care, child welfare and adoption reforms. The first hearing will be held on Wednesday, April 13, 1988, and will begin at 10:00 a.m. in room 1100 Longworth House Office Building. Additional hearing dates will be announced in a subsequent press release.

In announcing the hearings, Chairman Downey said, "The last major review of this program resulted in the 1980 amendments authored by George Miller. It's time to take another detailed look at the system, how the 1980 law has worked, and whether further improvements are needed. I am particularly pleased to conduct these hearings with the House Select Committee on Children, Youth, and Families. Together, we can develop legislation to bring us into the 1990's."

The Adoption Assistance and Child Welfare Amendments of 1980 (P.L. 96-272) were designed to emphasize preventive services that would strengthen families, prevent the unnecessary placement of children in foster care, assure appropriate services for children in foster care, and entitle children to permanent homes.

On each of the hearing dates, different issues will be addressed. Individuals and organizations interested in presenting oral testimony are asked to address one of the following issues:

Overview of the Programs.-- What services are provided with child welfare and foster care funds; what are the characteristics of children served by these programs and how have these changed since passage of the law; have State service programs changed to reflect the changing needs of children and families; have the goals of P.L. 96-272 been achieved; if not, what barriers have impeded its implementation?

Administrative Issues.-- What has been and what should be the Federal role in the administration of P.L. 96-272; what has been the effect of the mandated Federal reviews of States' compliance with the services, case planning and case review requirements of the Federal law; has adequate assistance been provided to the States needing to make improvements in their child welfare programs; what have been the strengths and weaknesses of State administration of P.L. 96-272; have funds for these purposes been adequate?

Services Designed to Prevent the Need for Foster Care.-- What kinds of preventive services are provided, who receives them, what is their impact; are there sufficient incentives in the law for preventive services; how has the reported incidence of suspected child abuse affected the child welfare system; has the requirement

(MORE)

for a determination by the court that "reasonable efforts" have been made to prevent removal of the child from the home been workable and effective; has sufficient assistance been provided to the States to provide adequate staff and training?

Services and Case Management for Children in Foster Care.-- Typically, what services are provided to children and their families in foster care; who receives these services; what is their impact; what has been the effect of case management and planning on the delivery of services to children and their families since enactment of the law; has the length of stay in foster care changed; what happens to children when they leave the system; are the current case planning, case review and judicial review requirements effective and adequate to deal with the needs of the increasing percentage of infants at risk and of teenage foster children; are foster parents and other care providers adequately trained to cope with the special needs of the children now entering foster care; how can we assure that children in foster care receive the full range of services they need, including routine services, such as medical exams, and that records are kept of these services and utilized in the planning and delivery of services to children; to what extent is the lack of coordination among agencies a barrier to providing appropriate care and services to children?

The Future of Child Welfare Services.-- What will the major challenges and special problems of the next decade be; are these problems emerging differently in various States and regions; how do we assure that appropriate connections are made between the many systems that serve these children and their families -- child welfare agencies, juvenile justice agencies, the courts, mental health agencies, and education and health agencies; what will our data requirements be; what innovations will be needed in preplacement services and services to children in foster care; what should the priorities be to ensure better delivery of services to children and their families; how should they be implemented?

DETAILS FOR SUBMISSION OF REQUESTS TO BE HEARD:

Individuals and organizations interested in presenting oral testimony before the Subcommittee and the Select Committee must submit their requests to be heard by telephone to Harriett Lawler [(202) 225-1721] by noon, Thursday, March 31, 1988. The request must indicate the topic to be addressed, and must be followed by a formal written request to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. Those scheduled to appear will be notified by telephone as soon as possible after the filing deadline. Any questions concerning a scheduled appearance should be directed to the Subcommittee [(202) 225-1025].

It is urged that persons and organizations having a common position make every effort to designate one spokesperson to represent them in order for the Subcommittee and Select Committee to hear as many points of view as possible. Time for oral presentations will be strictly limited with the understanding that a more detailed statement may be included in the printed record of the hearings (See formatting requirements below.) This process will afford more time for Members to question witnesses. In addition, witnesses may be grouped as panelists with strict time limitations for each panelist.

In order to assure the most productive use of the limited amount of time available to question witnesses, all witnesses scheduled to appear are required to submit 100 copies of their

(MORE)

prepared statements to the Subcommittee office, B-317 Rayburn House Office Building, at least 24 hours in advance of their scheduled appearance. Failure to comply with this requirement may result in the witness being denied the opportunity to testify in person.

WRITTEN STATEMENTS IN LIEU OF PERSONAL APPEARANCE:

Persons wishing to submit a written statement for the printed record of the hearings should submit at least six (6) copies of their statement by the close of business, Wednesday, April 27, 1988, to Robert J. Leonard, Chief Counsel, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements for the record of the printed hearings wish to have their statements distributed to the press and interested public, they may deliver 75 additional copies for this purpose to room 1100 Longworth House Office Building on the date of the hearing.

SEE FORMATTING REQUIREMENTS BELOW:

COMMITTEE ON WAYS AND MEANS FORMATTING REQUIREMENTS FOR PRINTING OF HEARING STATEMENTS, WRITTEN COMMENTS AND EXHIBITS

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will **not** be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.
2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.
3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.
4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and public during the course of a public hearing, may be submitted in other forms.

FOR IMMEDIATE RELEASE
WEDNESDAY, APRIL 13, 1988

PRESS RELEASE #14
SUBCOMMITTEE ON PUBLIC ASSISTANCE
AND UNEMPLOYMENT COMPENSATION
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE THOMAS J. DOWNEY (D., N.Y.), ACTING CHAIRMAN, SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION, COMMITTEE ON WAYS AND MEANS, AND THE HONORABLE GEORGE MILLER (D., CALIF.), CHAIRMAN, SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES, U.S. HOUSE OF REPRESENTATIVES, ANNOUNCE CONTINUATION OF HEARINGS ON FOSTER CARE, CHILD WELFARE AND ADOPTION ASSISTANCE

The Honorable Thomas J. Downey (D., N.Y.), Acting Chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, and the Honorable George Miller (D., Calif.), Chairman, Select Committee on Children, Youth, and Families, U.S. House of Representatives, today announced the continuation of hearings on foster care, child welfare and adoption assistance reforms. The first day of hearings remains scheduled for April 13, 1988, beginning at 10:00 a.m. in room 1100 Longworth House Office Building. A second hearing day has been scheduled for Thursday, April 28, 1988, in room 1100 Longworth House Office Building, beginning at 10:00 a.m. Additional hearing dates will be announced in a subsequent press release.

All other details for the hearings remain the same (see press release #12, dated March 18, 1988), except that the deadline for submission of written statements for the record will be extended until the conclusion of the hearings.

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*** NOTICE -- CHANGE IN LOCATION ***

FOR IMMEDIATE RELEASE
FRIDAY, APRIL 15, 1988

PRESS RELEASE #14-REVISED
SUBCOMMITTEE ON PUBLIC ASSISTANCE
AND UNEMPLOYMENT COMPENSATION
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
1102 LONGWORTH HOUSE OFFICE BLDG.
WASHINGTON, D.C. 20515
TELEPHONE: (202) 225-1721

THE HONORABLE THOMAS J. DOWNEY (D., N.Y.), ACTING CHAIRMAN,
SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION,
COMMITTEE ON WAYS AND MEANS, AND
THE HONORABLE GEORGE MILLER (D., CALIF.), CHAIRMAN,
SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES,
U.S. HOUSE OF REPRESENTATIVES, ANNOUNCE A CHANGE IN THE LOCATION
OF THE APRIL 28, 1988, JOINT HEARING ON
FOSTER CARE, CHILD WELFARE AND ADOPTION ASSISTANCE

The Honorable Thomas J. Downey (D., N.Y.), Acting Chairman of the Subcommittee on Public Assistance and Unemployment Compensation, Committee on Ways and Means, and the Honorable George Miller (D., Calif.), Chairman, Select Committee on Children, Youth, and Families, U.S. House of Representatives, today announced that the joint hearing scheduled for April 28, 1988, will be held in **room B-318 Rayburn House Office Building**, beginning at 10:00 a.m.

All other details for the hearings remain the same. (See press release #12, dated March 18, 1988, and #14, dated April 13, 1988.)

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OPENING STATEMENT OF HON. THOMAS J. DOWNEY, ACTING CHAIRMAN, SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION, COMMITTEE ON WAYS AND MEANS

Acting Chairman **Downey**. Good morning. The subcommittee will come to order. I apologize to our witnesses and audience for being late. We were looking for a gavel.

Today we begin our hearings on child welfare services, foster care and adoption assistance. This is the first of three such sessions we will hold with the Select Committee on Children, Youth, and Families.

Each year there are over 2 million cases of suspected child abuse and neglect reported to the public agencies that are responsible for receiving and responding to these reports. Other children come to the attention of child welfare agencies when their parents become ill or disabled, by referral from the juvenile justice system, after severe parent child conflict or because of a child's serious emotional and behavioral problems. Every year over 450,000 children spend some time in foster care. More than 275,000 children are in foster care in any one month. Nearly 70 percent in foster family homes. The remainder are in child care institutions, emergency shelters or group homes.

Eight years ago Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, was signed into law. That legislation was the result of years of work by my colleague and friend, George Miller. The 1980 legislation grew out of concern that children were being removed from their homes and placed in foster care without sufficient efforts being made to prevent the need for foster care. There was little case monitoring and not much was done to reunite the family or otherwise provide a permanent home for the child.

During the course of these hearings, we hope to hear from child welfare advocates, case workers, public and private child welfare administrators, lawyers, judges, foster parents, foster children, and community volunteers about how the law is working and what remains to be done. We want to know which provisions of the 1980 law have been most effective in improving the lives of the children and families who are part of the child welfare system. It is our wish that their stay in foster care be safe, nurturing and as brief as possible. They deserve the very best we have to offer.

It is now my privilege and pleasure to welcome George Miller, who is the chairman of the Select Committee on Children, Youth, and Families. George.

OPENING STATEMENT OF HON. GEORGE MILLER, CHAIRMAN, SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

Chairman **Miller**. Thank you. Again, let me thank you for holding this hearing on the foster care system in this country and on oversight of the Child Welfare Act of 1980. As you mentioned, some 13 years ago we started looking at this system to see whether or not it deserved improvements and what we found was a system in shambles.

Instead of a system designed to provide short term care for children, we found a system that kept children in placements outside their home for years, a system which chronically denied children basic legal rights and protections, a system that provided financial incentives for long term placement, but insignificant funds for preventive and reunification services to prevent family breakups.

All too often we found that children were inappropriately placed, frequently in settings far from home or far more restrictive than required. In 1977, a report issued by the Controller of the State of New York estimated that 11,000 children were being kept in foster care an average of 5½ years too long at the cost of a quarter of a billion dollars. The top officials of Federal Government admitted that no one was even certain how many children were in the foster care system, or where they were placed.

With the help of child advocacy groups, State and local social service administrators, and Federal program specialists, we were able to pass Public Law 96-272. This legislation was designed to remedy many of the problems that we found in that system.

As a result of the work on that legislation, there was a decline in the number of children in foster care by more than one third between 1977 and 1983. In addition, we have seen family preservation programs of intensive family-based services successfully prevent out-of-home placement for hundreds of children and avert more costly treatment and placement. But, despite the sound principles and the early success of our law, for the last 5 years the child welfare system has again become unable to respond to the children and families in its charge—and the problems, the impacts, and the cost are once again on the rise.

Reports of child abuse and neglect have increased 60 percent since 1981; families with children have joined the ranks of the homeless; poverty has added nearly 3 million children to its ranks since 1979; and the drug epidemic has compounded the vulnerability of millions of families. These trends have contributed to a marked upturn in foster care placements, with more troubled and needy children overwhelming the available services, resources, and caseworkers. I am delighted that we have this opportunity to have both the select committee and the committee of legislative jurisdiction hold these hearings together. This is the first in a series of hearings in which we will attempt to unravel exactly what has gone wrong with the system in the last couple of years that allowed the crisis to continue to grow and the resources to diminish. We look forward to hearing from the witnesses from whom we will hear this morning and in the future days of hearings. Thank you, Mr. Chairman.

Acting Chairman DOWNEY. Thank you, George. Mike Andrews.

[The statement of Chairman Miller follows:]

OPENING STATEMENT OF HON. GEORGE MILLER, CHAIRMAN, SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

We are meeting today to begin the first comprehensive examination of the foster care system since passage of the Adoption Assistance and Child Welfare Act of 1980. I am pleased to be holding this hearing jointly with the Subcommittee on Public Assistance and Unemployment Compensation of the Ways and Means Committee.

Foster care is a subject of deep personal importance to me. Thirteen years ago, I began a Congressional inquiry into the foster care system. What we found was a system in shambles.

Instead of a system designed to provide short-term care for children, we found a system that kept children in placements outside their homes for years, a system which chronically denied children basic legal rights and protections, a system that provided financial incentives for long-term placement but insignificant funds for preventive and reunification services to prevent family break-ups.

All too often, we found that children were inappropriately placed, frequently in settings far from home and far more restrictive than required. A 1977 report issued by the Comptroller of New York estimated that 11,000 children were kept in foster care an average of 5 and one-half years too long at a cost of one quarter of a billion dollars. The top officials of the federal government admitted that no one was even certain how many children were in the foster care system, or where they were placed.

With help from state and local social service administrators, child advocacy organizations, federal program specialists, and child welfare professionals, P.L. 96-272 became law. This legislation was designed to remedy the problems we had found in the foster care system by:

Emphasizing preventive services that would strengthen families and prevent the unnecessary placement of children in foster care;

Mandating specific procedural protections including a case plan and case review system for all children in the foster care system;

Requiring timely action to reunite children with their families, or to secure them permanent homes; and

Providing federal subsidies and health care coverage to encourage the adoption of "children with special needs".

As a result of the work on this legislation, there was a decline in the numbers of children in foster care by more than one third between 1977 and 1983. In addition, we have seen family preservation programs of intensive family-based services successfully prevent out-of-home care for hundreds of children, and avert more costly treatment and placement. But, despite the sound principles and early success of our law, the child welfare system has been unable to respond to the children and families in its charge in the last five years—and the problems, the impacts and the costs are once again on the rise.

Reports of child abuse and neglect have increased 60% since 1981, families with children have joined the ranks of the homeless, poverty has added nearly 3 million children to its ranks since 1979, and the drug epidemic has compounded the vulnerability of millions of families; these trends have contributed to a marked upturn in the foster care system, with more troubled and needy children overwhelming the available services, resources and case workers.

During the last two years, the Select Committee on Children, Youth, and Families has conducted a series of hearings addressing the issues affecting children in state care: children in the foster care, juvenile justice, and mental health systems. I welcome the opportunity to join with the Subcommittee on Public Assistance and Unemployment Compensation to examine the foster care crisis today: who is coming into the child welfare system now, how these children differ from children and families in the system 10 years ago, what services are needed, how the system is administered, and the alarming state of the child welfare system throughout this country.

The answers to these questions will guide us as we consider how best to serve children in their own homes, whenever possible; how to assist them in obtaining permanent homes when they can no longer remain with their families; and how to assure that they receive the appropriate care and mandated services when they must enter the child welfare system.

CHILDREN IN FOSTER CARE
A FACT SHEET

NUMBER OF CHILDREN IN FOSTER CARE ON RISE

- * Between 1983 and 1985, the number of children in foster care rose 2.6% (from 269,000 to 276,000). (Tatarra, 1988)
- * Between 1984 and 1985, 31 of 51 reporting States (includes District of Columbia and Puerto Rico but not New Hampshire) showed an increase in the number of children in foster care, while 20 States showed a decrease. (Tatarra, 1988)
- * In 1989, 115,000 children are projected to be in AFDC foster care, up from an estimated 109,000 children in any given month in FY 1987. (U.S. Department of Health and Human Services, 1988; Congressional Research Service, 1987)
- * In New York City (NYC), 20,302 children were in foster care as of February 29, 1988 -- almost 500 more than were in care a month before (19,816 as of January 31, 1988) and a 25% increase since 1983, when 16,230 children were in care. (NYC Human Resources Administration, 1988)
- * In Los Angeles (LA) County, the number of dependency judicial reviews increased 229% -- from 11,610 in FY 81-82 to 38,215 in FY 86-87. (Little Hoover Commission [LHC], 1987)

ABUSE, HOMELESSNESS, DRUGS PLACING MORE CHILDREN AT RISK OF OUT-OF-HOME PLACEMENT

- * In 1986, 2.2 million children were reported as abused or neglected - up 12% from 1985. Between 1981 and 1985, the number of such reports rose 55%. (American Humane Association, 1987; Select Committee on Children, Youth and Families [Select Committee], 1987)
- * In New Jersey, 900-1,200 children (18% of the total NJ foster care population) were living in foster homes in 1986 because their families could not find a place to live. (Fagan, 1987)
- * As many as 50% of homeless youth seeking housing in NYC shelters had a history of foster care placement. (Shaffer and Caton, 1984)
- * From 1981 to 1985, LA County experienced a 453% increase in minors and infants referred because of drug ingestion problems. (LHC, 1987)
- * In NYC, 2,069 live births to drug-using mothers were reported in 1986, a rate of 16.9 per 1,000 live births -- up from 10.4 per 1,000 in 1985 and 7.9 per 1,000 in 1983. (NYC Department of Health, 1987)

* Three hundred infants were in NYC hospitals awaiting homes at the end of February 1987. (Children's Defense Fund [CDF], 1988)

STATES UNABLE TO KEEP PACE WITH NEEDS TO PREVENT PLACEMENTS OR TO PROVIDE PERMANENT HOMES FOR CHILDREN

* Illinois reports a 43% reduction in licensed foster homes between 1983 and 1986 from 7,007 down to 3,954. By the end of June 1987, there were only 2,790 such homes. From early 1986 to early 1987, there was a 31.6% increase in children entering foster care. (Illinois Department of Children and Family Services, 1986; CDF, 1988)

* In Santa Clara County, CA, the number of children entering emergency shelter care grew from 350 in 1980 to 1,863 in 1985, an annual growth rate of 30%; in San Francisco, the shelter program, designed for 80 children, had 267 children in it on January 23, 1987. (Children's Research Institute of California [CRIC]-Bay Area Foster Care Network, 1987)

* In California, the average length of stay for a child in shelter care is nearly 40 days. Nearly 1/4 of all children in emergency shelter in San Francisco were there 2 months or longer. Among these children, 20% were there 76 days or longer. (CRIC, 1985; LHC, 1987)

* In Maryland, it takes an average of 5.1 years for a child in the foster care system to be adopted; in Baltimore City, the 118 children adopted in the year ending June 1986 had spent an average of 7.4 years in care. ("Growing Up Alone," Governor's Task Force to Study Adoption Procedures in Maryland, as cited by CDF, 1988)

HEALTH AND EMOTIONAL NEEDS OF FOSTER CHILDREN LARGELY IGNORED

* Although foster children are at risk for serious health problems, of 417 foster children surveyed in Baltimore, the Early Periodic Screening, Diagnosis and Treatment (EPSDT) exam was completed for only 30% of the newly enrolled and 18% of the longer-term foster children. Less than 12% of the children had received psychological services. (White, Benedict, & Jaffe, 1987)

* Of 14 California counties surveyed, only one performs routine mental health evaluations of foster children, and in most counties, less than 1/3 of the children ever receive such evaluations. (Klee & Halfon, 1987)

* Even after problems are identified, in many California counties, ongoing mental health care is not initiated until the child leaves the county shelter or emergency foster home, a process that may take up to 6 months. (Klee & Halfon, 1987)

FAMILY PRESERVATION/SUPPORT PROGRAMS REDUCE OUT-OF-HOME PLACEMENTS

States identified programs which, according to evaluations, have successfully prevented child abuse, reduced recidivism, improved family functioning, avoided costly treatment and prevented placement of children in foster care. (Select Committee, 1987)

For example:

* Florida: The "Intensive Crisis Counseling Programs" (ICCP served 107 families with 302 children. Of the 196 target children seen, only five had been removed by the State at the time ICCP services were terminated (a 97.4% success rate). Ninety-two of these families were still intact. Follow-up at one, three, and six months showed 85.7, 65.5 and 80.0% success rates. A conservative estimate indicates that a single ICCP with 3.5 full-time equivalent therapists may net the state $619,290 in avoided placement costs.

* Nebraska: The "Intensive Services Project" served 34 high-risk families during its first year. In 86% of the cases (24 of the first 28 cases), placement was averted. A revised and extended version of this project, "Home-Based Family-Centered Services," decreased the number of children placed out of the home by 10% in its first two years. In its first year, therapists reunified or prevented placement in 90.4% of the 248 families they saw.

* Virginia: Of the 715 children at risk of placement who were treated by the "Preplacement Prevention Services Program," which provides family-structured therapy and/or home-based services, only 7% were removed; and they remained in placement for a shorter time than other foster children. Of the 391 families, 69% improved in overall family functioning. The average cost to prevent placement is $1,214, while the average annual cost for foster care is $11,173, and for a residential facility, $22,025.

OPENING STATEMENT OF HON. MICHAEL A. ANDREWS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Mr. ANDREWS. Thank you, Mr. Chairman. I am pleased that you have called these joint hearings today with Congressman George Miller, chairman of the Select Committee on Children, Youth, and Families. The subject of these hearings, foster care, child welfare, and adoption assistance is important to the well being of children across this Nation.

Today, nearly one-half million children each year come under the responsibility of the foster care system. Most children are placed in foster care due to abuse and neglect. The number of reports of abuse and neglect have climbed from 669,000 in 1976 to 2.2 million in 1986. This increase is a result of several factors including economic conditions and increased public awareness of child abuse.

The Adoption Assistance and Child Welfare Amendments of 1980 established some important principles and programs. It is now time to review this law thoroughly. One important goal has been realized. States have adopted new policies that prevent inappropriate use of foster care. The number of children in foster care has been reduced by nearly one-half from 1977 to 1984. We can be proud of that. But this number has been on the upswing since 1984 reflecting a increase in family violence.

This increase has put new demands on the foster care system. The need for foster care recruitment and retention has never been greater. Many child welfare agencies have begun innovative marketing programs to attract greater participation.

I am chairman of the Foster Care Recruitment and Retention Project for Harris County in Texas and 13 surrounding counties in that area. I am very much aware of the need for community support for the efforts of children protective services. Government just simply cannot do it alone. If such agencies do not have a sufficient number of foster parents, then they cannot remove children from homes where living conditions are unsafe.

The adequacy of Federal funding and State commitment also needs to be reviewed. Many agencies throughout the country do not complete a thorough enough review of cases for monitoring of potential abuses. The reporting requirements needed for program development are all too often neglected.

Finally, we must look at the serious cases reported in many cites of abuse and death of children who are under the care of the child welfare system. The tragedies that might have been prevented give us a compelling reason to ask whether we are doing all we can do to protect and care for our children.

I believe these hearings are the first step in moving us in the right direction of continuing to improve foster care, child welfare and adoption assistance for the well-being of our children.

Acting Chairman DOWNEY. Thank you, Mike. Dan Coats.

OPENING STATEMENT OF HON. DAN COATS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF INDIANA

Mr. COATS. Thank you, Mr. Chairman. I want to thank you on behalf of the minority of the Children, Youth, and Families Select

Committee for convening these hearings and allowing our select committee to be a part of it. Our chairman, Mr. Miller, has invested a great deal of time and effort in these subjects and has played a significant role in the reforms of the 96th Congress. Now, 8 years later, we are exercising an often overlooked and underused, but, one of the most important, functions of Congress: oversight of the existing laws that are on the books and how they are administered.

This series of three hearings can provide us with some important guidelines as we examine how these laws are working, how they are not working, what we need to do to make them work better, and what changes need to be made. The bottom line is that we want to make the system work. We want to make it as family-sensitive and in the best interest of the children as possible. That is what we are here for. The record that can be established by these three hearings can provide us the necessary information to do that. I thank you, Mr. Chairman for convening these important hearings.

Acting Chairman DOWNEY. Thank you, Dan. Tom Sawyer.

OPENING STATEMENT OF HON. THOMAS C. SAWYER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. SAWYER. Thank you, Mr. Chairman. I would like to thank both you and Chairman Miller for making these hearings available. There is a famous line from Charles Dickens' Great Expectations, to the effect that "in the world in which children have their existence whosoever brings them up there is nothing so finely perceived and so finely felt as injustice." I think it must be a lot like that for a child who enters the foster care system. An abused or neglected child, or one who has no alternative but State care, is a child who deserves and demands our full attention.

After an extended period of decline, the number of children in foster care has begun to increase. The greater demand on child welfare facilities has deluded States abilities to keep pace. Increased poverty and hopelessness among families and the growing number of physically and sexually abused children has made it even more difficult for States to reunite families or to find permanent homes for children. There has also been an increase in the number of so called throwaway children, who, for whatever reason, cannot go home or do not have a home to go to. Many of these children are showing up at runaway shelters where they can find only temporary refuge. Many need very specific services that shelters and State facilities often simply cannot adequately supply because their limited resources are already stretched to the breaking point.

According to Childrens Defense Fund, a recent study entitled "Children In Out of Home Care" reported that almost two-thirds of the children in placement in my home State of Ohio had behavior and social adjustment problems and/or developmental or physical problems. More than 40 percent had multiple problems. We simply cannot continue merely to warehouse these children. It is vitally important that their individual needs be recognized and met. It is a challenging goal for most States.

Congress must continue to monitor the state of our foster care system and ensure that laws designed to protect and serve these children are strongly enforced. For that and for the effort to make that kind of oversight possible, Mr. Chairman, I look forward to the testimony from today's witnesses.

Acting Chairman DOWNEY. Thank you, Tom. The committee next will hear from a panel consisting of Daryl Morris of Houston, Tex.; representing the American Civil Liberties Union will be Marcia Lowry of ACLU's Children's Rights Project. She will be accompanied by Boyd. And from the District of Columbia Foster Parents Association, Mary Grayson.

Daryl and Boyd, let me just tell you, right off the bat, not to be nervous, though I suspect you are going to be. You are among friends and we are very happy to have you here and we are anxious to hear what you have to tell us. So if you have something you would like to read, then please go ahead and read it. Take your time.

STATEMENT OF DARYL MORRIS (FORMER FOSTER CHILD FROM HOUSTON, TEXAS)

Mr. MORRIS. I would like to start off with good morning, Mr. Chairman. My name is Daryl Morris and I am 18 years old. I recently stopped living in a foster home 1½ months ago. I am now living with my grandparents. I lived in my last foster home for approximately 5 years. I had been moved six times before I was placed in my last foster home. The reasons for so many changes were different circumstances and each circumstance has had an affect on me. It seemed that after each time I learned to trust one foster parent I would be moved. This also had an affect on me. While in foster care I was placed with my younger brother, but separated from my older brother and sister. We did not have contact for almost one and a half years. But I believe this separation brought us closer as a family even though we were apart.

I lived with my mother, brother and sister for 1½ years before we were placed in foster care. I was about 10 years old then. Until then, I had lived with my grandparents. At first, when we lived with my mother, everything seemed fine. But I do not think she really adjusted to suddenly having four kids. After about 4 months, she stopped coming home everyday and that is when my older sister, she was 13 at the time, began to start caring for us. The neighbors noticed that we were home alone for long periods of time and they contacted the Harris County Welfare Department. On October 13, 1981, we were put in foster care. I was 12 years old then.

My brother and I stayed in three different foster homes from October 1981 to November 1982. We went back to stay with my grandmother from November 1982 until August 1983. Because she did not have the money to care for us, we went back into foster care and that is when my brother and I went to live with Mr. and Mrs. Clyde Darden of Houston, Texas.

They took us in and from day one they showed us the love we had never had in the other foster homes and even from our mother. They told us that they loved us and provided for us like we were their own children. From 1983 to 1988, we did all the things that a real family did without anyone knowing that we were in foster care in a foster home with foster parents. We even went on family vacations with them. Even though I am no longer with them I keep in touch with them and they still say that they love me and I believe them.

Because I broke a rule, I was moved from the Darden's to another foster home in February. When I got to the new foster home I said that I could not move again. Adjusting to different people and different life styles had taken a toll on me. I just could not go through it again, so I stayed there for one day. Luckily, my grandmother said that I could live with her.

I do not think anyone can imagine the way that I felt when I was moved from the Dardens, I had to deal with a great deal of rejection all my life. I still get upset thinking, why everyone rejected us. It hurt so much. We did not do anything wrong. We were not bad kids. And sometimes I wonder if my mother really wanted us. I wondered why my mother gave us up. I wondered if she really ever loved us. I saw my mother about a year ago in April and she did not even know who I was. That hurt me and I am still trying to come to grips with all of this, but it is hard. It is hard.

Until the Dardens I had never had the sense of love and sense of belonging. It is hard living with different people and being moved from one place to another. While we were never physically abused, this was mental abuse. That is even worse than physical abuse because the scars go away from your body but never from your mind.

I feel like I am the luckiest person alive right now. I am getting ready to graduate from high school. I work part time. I have someone who loves me. If I am not accepted in college of my choice, I will join the service. Sometimes, I wonder if our lives would have been as fortunate as they are now if we had been at home with our own mother.

I have had mainly good experiences in foster care. I was lucky to get the Dardens as foster parents. Children are in foster care because of neglect of love and they need a sense of belonging. I know there is a shortage of foster parents in Houston. I think that agencies need to screen foster parents and make sure that they are not just doing this for the money, caring for the kids for their own financial status.

I think there should be more independent living programs. In Texas I could only get in such a program if I was not in school, that is with financial help and being an adolescent and getting out of the system. I wanted to graduate from high school so I could not get into the program. I think that such programs should be available to everyone. To all the adolescents that are getting out of care and not for only those that qualify for such program assistance. Teenagers need to learn to become more self sufficient on themselves than on an agency as they are getting out of the system.

I am not embarrassed to come here today and tell you my story because nothing is more embarrassing than being on the street with no where to go. I hope by doing this I will be able to help other kids in foster care. In Texas I am assisting youth to develop a foster care network as a part of a National Youth In Care Association with the support of the Child Welfare League of America and the Texas Department of Human Services. In the network the youth are taking active roles in the development of activities which assist youth in care to make the transition from dependent living to independent living. We also act as an informal support network for all youth in care, but again, we need the support of the Federal Government to support this and other networks in Texas and around the United States.

I have an article here from Houston that I would like to submit for the record about the program that we have in Houston.

Acting Chairman **Downey**. Without objection we will put it in the record. Thank you very much. That is a very good job.

[An attachment to the statement follows:]

The Preparation for Adult Living Program

Janet Legler

Since its inception in June of 1985, 47 teens have successfully completed the Preparation for Adult Living (PAL) Program in Houston, Texas. The majority of these graduates are living on their own and working at least part-time. The program is administered by Harris County Children's Protective Services and the Texas Department of Human Services.

Modeled after the independent living program of Jefferson County Colorado, PAL forces reality upon teen-agers earlier than their 18th birthdays so they are better able to handle life after they turn 18. Hopefully, through participation in PAL, the world will be a less lonely and scary place.

The program is designed for foster care adolescents who will not complete high school by 18 or 19 years of age. It helps those between 16½ and 18 develop the skills and self-confidence they need to support themselves when state care ends at 18.

PAL participants are taught basic life survival skills by an instructor with Vocational Guidance Services, Inc., which is contracted to provide the intensive training. Topics covered in the 4-month long training include job readiness, money management and budgeting, shopping and cooking, legal rights, and consumer awareness. Field trips to a savings and loan, apartment complex, and Planned Parenthood are important experiential learning activities. During the section on job interviewing, students are videotaped as they role play being the employer and potential employees in various situations. The class meets from 9:00 am to 1:00 pm Monday through Friday. After 1:00 pm, students are expected to be looking for work or working. One hour of each class day is spent on GED preparation. Participants are expected to move into independent living arrangements within two months of completing the training. Extensions must be approved by PAL staff.

All students are required to save at least $200 and be working to be eligible to receive financial assistance from the program when they move out on their own. Eligible youth receive $300 the first month they are out on their own. $250 the second month and $250 the third month. Program staff provide assistance in finding apartments and jobs.

The PAL Program Caseworker, visits the youth at least once a month until they are 18. A limited number of volunteers, who serve as Independent Living Advisors, also help with the follow-up after placement. PAL graduates are invited to monthly support group meetings for as long as they supply us with a current address. Efforts are made to keep up with graduates until they are at least 19. A newsletter informs graduates and current students about the whereabouts of their former classmates. The teenagers contribute poems, articles, recipes, and artwork. Most of the groups are very cohesive, and they keep up with each other after they finish the program.

In July of 1987, a one hour per week group therapy session led by two Mental Health Mental Retardation therapists was added to the program. We had tried, unsuccessfully, to get participants into individual or group counseling. This was disappointing since so many young adults are held back from making progress toward independent living because of unresolved feelings about issues in their past life, such as abuse and neglect. This new ''Rap Group'' has been a helpful and much needed addition to the program.

Through a PAL Mentor Program, Houston area businesses are encouraged to hire PAL students and graduates. Several businesses are participating including Gulf Coast Legal Foundation, Aztec Maintenance Services, Inc., and Title USA Co. An on-the-job training program to help more youth gain marketable job skills is in the planning stages.

A component called ''Mini-PAL'' was added to the program in 1986 to serve teen-agers who are going to graduate on time from high school but who still need independent living skills. The Mini-PAL class, an abbreviated version of PAL, meets one night a week for eight weeks.

Yvette Robertson was in the first PAL group in the summer of 1985. She has gotten her GED, is employed as a clerical assistant full time, is taking college courses, and takes care of her basic needs. When asked about PAL, she said, ''PAL is like a family. I learned to be patient and to trust others. PAL helped me convince myself that I could make it.''

For more information about the PAL Program, contact: Janet Legler at Harris County Children's Protective Services, 4040 Milam, Houston, TX 77006, (713) 526-5701.

Independent Living Initiative: New Study

n September, 1987, WESTAT, Inc. of Rockville, Maryland, was awarded a contract to study the effects of the independent living initiatives program legislation. The study, A National Evaluation of Title IV-E Foster Care Independent Living Programs for Youth, will be completed in two phases over a two year period.

During Phase I, WESTAT will contact all 50 states and the District of Columbia to update information about state plans, policies and services to adolescents in foster care. An evaluation of 8 states and 24 county clusters will be completed this year to assess the influence of PL 99-272 on state and local policies, programs and services. The data collected during this portion of the study will be measured against data obtained in WESTAT's earlier study, *Independent Living — Services for Youth In Substitute Care*, published in 1986. (See Daily Living, Volume 1, Number 1 Winter, 1987)

Phase II will describe and assess the effects of independent living services on adolescents by comparing the outcomes of adolescents who received such specialized services with those who did not. During this phase, interviews will be conducted with 1800 adolescents who have been discharged from foster care. The information gained from this portion of the study will be used to make recommendations for service delivery models.

Acting Chairman **Downey**. Marcia Lowry and Boyd are next. Marcia do you have something to say or is Boyd going to testify?

STATEMENT OF MARCIA ROBINSON LOWRY, DIRECTOR, CHILDREN'S RIGHTS PROJECT, AMERICAN CIVIL LIBERTIES UNION, ACCOMPANIED BY BOYD A., FORMER NEW YORK CITY FOSTER CHILD

Ms. **Lowry**. Well, I do have something to say. I would like to introduce Boyd to the committee and have him make some remarks. Boyd is a young man who is a plaintiff in a law suit that the Children's Rights Project of the American Civil Liberties has brought to try and enforce provisions of Public Law 96-272. He was in foster care for almost 5 years. He is now living at home with his mother and sisters and brothers. He has some things that he would like to tell the committee about foster care. Then, just briefly, I would like to make a few remarks myself.

Boyd A. OK. The first thing is when we were with my mother, she put us in a foster care home for an emergency, but they took advantage of it and kept us in. We were away from our family and then me and my big brother and my little sister and my little brother were in different homes. My mother just, she had to give us up for a little while so we could just come back with her after she get well from the hospital. But they did not let us come back to our mother because they said that she was not well enough. And that was not true, she was well. And then she kept on trying, kept on fighting it, but we could not. We could not beat it. We could not come back with our family again.

Then after that, we just went. I went to a different foster home with my other brother and then, I think, my sister and my little brother stayed in the same foster home. He touched a plant. Just because of touching a plant he got smacked in the face. That was not good. When he come to visit us I did not feel good. I think, man, when they should be a foster mother, they should take care of those kids. They should not just take them for the money. That is what I think. And I do not think it is good. So after that happened, we went to the same foster home, all of us. But, we were visiting our mother. And one thing, man, when we went to visit, sometimes we did not like to visit our mother. Do you know why? Because when we went to visit our mother they would have to tear us apart to take us away. We would not want to leave. And then, I could not stand it. I could not stand it, so I went to another foster home.

First my brother went and then I followed my big brother, because I have always followed my big brother. Well, agencies still, it still stayed like that. And then they stayed in Mrs. —, they stayed in the foster mother's home and we just went to a different one. And that lady she smacked me and then she put me in hot water. And it was hot, it did not feel good. I feel like doing that to her. That is how I feel. And after that I had to go to a different foster home, so I went to a different foster home. My brother stayed in that foster home. I have to get so used to so many mothers. So many mothers. It is not funny. After that I went somewhere else to a different one where I was there for, I do not know how long, but I was there. Nothing actually happened there. From there I went to my father's, which my mother got me from there and we stayed in this place for a long time. And I think it was in bad shape or something like that. We were fighting, just fighting so we could stay back with our mother. We said this, if we would go to a foster home then our mother would come with us. If she would go to jail then we would go with her. We did not care as long as we stayed together. That is the only thing. That time was really, it was really a happy day for us. But after that something happened to me, they looking behind my back everything I do. Something happened wrong and I went into another foster home which was no good. The lady only spoke Spanish. I only know a little bit of Spanish. I could not communicate with her. I could not ask her nothing. After that I ran way from there because I could not stand it. And I went to, that was in Brooklyn, but I went to a different place, over my mother's house. And we wanted so bad to stay together. And the cops came and they tried to take us apart. I was going to hide.

And then they got me so I had to go to a different foster home. I think it was in Long Island. Right there I had to spend all this time just going and going back to come back with my mother. But it was not funny. When I came back Chris Hansen, my lawyer, he helped me. And he helped me come back. The day that I met him was when we were telling them that we want to come back, inside that place. And then we went to a shelter and that is where we met him. And this was after about Long Island. When we came back we swear that we would not go back again to a foster home. We are going to stay with the family forever. That is the way we feel. If we go back it is going to be, not going to be no good no more. I do not like it. I still think that they are looking behind my back. I do not trust them one bit. I do not think that the way they work is the way it is supposed to work.

My mother had two apartments and they did not help her with none. All this stuff happened over there and I did not even like it. And I want to get back what they took from me. They took about almost 5 years away from my life. I am only 12. That is about half, half of my life right there that I spent just waiting to come back to my real family. But I could not.

So now that we are together we will never part again. I am happy we are together. The whole world is like it came back to me. My sister and all of them, I love them all. We can, me and my sister we cannot communicate too good because we have been apart for so long and we do not act like brothers and sisters.

Acting Chairman DOWNEY. Thank you. Thank you Boyd.

Ms. LOWRY. I want to make clear to the committee that Boyd comes from a very typical family. His mother had some difficulties, not very serious difficulties. Yet, it took her almost 5 years to get her children reunited. She got no help in getting her children back despite the fact that there is a very clear and very strong bond in this family. There was never any question of abuse in this family. And the children fought desperately to come back to her. These are children, of course, who are supposed to be protected by the very fine legislation that Congress passed in 1980 which requires the States to make reasonable efforts to avoid the need for foster care placement whenever possible. Reasonable efforts were not made in this case and reasonable efforts are not made in hundreds and hundreds of thousands of cases across the country.

The Children's Rights Project of the American Civil Liberties Union has spent the last 8 years trying to enforce the provisions of this very good piece of legislation in Federal court because the States are not enforcing it and because the Federal Government is not seriously trying to enforce it. There is very little in the way of reasonable efforts to keep families together in the States across this country. There are some very good model programs and that is what they are. They are model programs. The States are not making a serious effort in every case to keep kids together. There are many children who come into foster care for whom the situation is not as it was in Boyd's case. There is in fact not a viable family. The family will not be reunited, it is clear. And yet, no efforts are made to move those children toward adoption.

The Federal law requires that there be periodic review of kids' foster care status and that efforts be made to either move the kid back home, if possible, and give services or to get the kid into an adoption track if that is the appropriate course. Yet, the figures show—and there are very, very few figures—that this is not happening. For example, in Louisiana one half of the children did not receive mandated 6-month reviews. A third of the children did not receive mandated 18-month dispositional hearings. In New Mexico a quarter of the children did not receive the mandated 6-month reviews. Access to adoption is a cruel hoax. It does not exist for most of these kids. It takes such a long time to decide whether or not to free a child for adoption that by the time a child gets on an adoption track, the child is both so old and so damaged by his experiences in foster care that he becomes truly unadoptable. Then the States say, look, the only kids we have are kids that nobody wants. The State has put them into that situation and the State has delayed getting these kids into a situation where people would know that they were available for adoption.

The length of time in care is increasing and, as this committee is aware, the population is going back up. We do not know the numbers of kids who are going in and out and if we did I think the figures would be even worse. There is an absence of really good data that anybody can rely on. But what we do know is devastating. The harm to these kids, as you have heard Boyd articulate so well, is immeasurable. It is not readily visible, because these children for the most part, although there are exceptions, are not physically abused. They are moved from home to home. Their ability to form relationships with adults is destroyed so that we are breeding generations of psychopaths. Children are being left at home without services and they are dying. More children are going to die. Children are being taken away from their families and destroyed by that when services could keep them together. They are growing up to be children who are going to produce more generations of kids who are going to produce more generations.

The question for Congress, I think is are you serious about this law? It is a good piece of legislation. Are you serious about having it enforced? Are you serious about trying to do something about kids like Boyd in New York, Del in Louisiana, Joseph in New Mexico and Michelle in Kentucky? Are you going to try and attach some strings to this huge amount of Federal money that you are giving to the States to damage kids. If you are serious about it I think that very big changes could be made for these hundreds of thousands of children. But, so far what we see is virtually no monitoring by HHS. The reviews that are done of the States are irresponsible. States are passing HHS audits with systems in which no reasonable person could consider children are being well treated. It is virtually impossible to fail an HHS audit. Notwithstanding the fact that children like Boyd are being unnecessarily taken away from their parents, other kids who cannot go home are not having a chance to go into adoption. We have been trying to enforce this law in Federal court because Congress is not and HHS is not.

I welcome the opportunity to speak to you all today and to urge you to take this law off the paper and into the lives of these children that you sought to protect.

[The statements of Marcia Lowry and Boyd A follow:]

Marcia Robinson Lowry
Director,
Children's Rights Project
American Civil Liberties Union

As director of the Children's Rights Project of the American Civil Liberties Union, I am very pleased to have the opportunity to address this joint hearing on foster care, child welfare and adoption reforms.

The Children's Rights Project has been engaged in advocacy and litigation on behalf of the hundreds of thousands of children in state custody for the last fifteen years. We along with many other children's advocates in this country, were very heartened in 1980 when Congress recognized the very serious problems in foster care by passage of the federal Adoption Assistance and Child Welfare Amendments to the Social Security Act, P.L. 96-272. The Adoption Assistance Act reflected growing concern that foster care was little more than a long term custodial arrangement for hundreds of thousands of children, that many children come into foster care unnecessarily, and once there have little chance of leaving until they are old enough to walk away on their own.

The goals of the Act are modest. As a condition of federal funding, states must have a reasonable information system to identify the children in federally-funded state custody. Under this law children come into state custody only after "reasonable efforts" have first been made to keep them at home with their families. Once children are in state custody, a permanent plan is to be made for each child with the goal of returning them to their families, through the provision of services, or if that is not possible, that adoptive homes be sought for them. The Act also requires that children be kept in the most familylike settings possible while in foster care, and that the children's status be reviewed periodically.

If the law were working, it would substantially transform the lives of hundreds of thousands of children who are still the victims of child welfare systems across the country. But the law is not working. These goals are not being achieved. The requirements of the Act not being enforced or monitored.

In New York, Bill, the boy you heard testimony from today, was taken from his mother when she had to be hospitalized, along with his sister and two brothers. For four years, his mother tried to get her children back, but was always rebuffed, told to find a job and better housing. Bill says that whenever his mother left him after a visit, he felt as if the whole world was leaving. It has taken class action litigation -- and frequent returns to court -- to get Bill and his family reunited and necessary services provided.

In Louisiana, three other children were taken from their mother, and placed in foster care when she had a temporary emergency. For the next year, her repeated attempts to regain custody were met with instructions to earn enough money to support her family (notwithstanding the existence of public assistance and the fact that she has not graduated from high school) and attend parenting therapy (where the therapist discharged her after a few sessions because she did not need that kind of assistance). She finally got her children back -- without explanation and without services -- when she joined a lawsuit pending in Louisiana, asserting violations of the federal Adoption Assistance Act.

These are not isolated examples. Over the last eight years, the Children's Rights Project of the American Civil Liberties Union has been involved in litigation in Kansas City, Mo., Louisville, Ky., New York City, and the states of New Mexico and Louisiana, seeking to enforce the provisions of the Adoption Assistance Act directed toward protecting children from spending their entire childhood in foster care. We have turned down requests from a number of other states to institute additional lawsuits, solely because of a lack of resources. In the course of trying to enforce this federal legislation, we have learned many important things, both generally and specifically.

I. Generally

Few if any states are in compliance with the law. Although we cannot claim to have investigated the situation in every state, the investigations we have done and the extensive discussions we have had with advocates nationally leads us to that conclusion. But the federal government and the states do not have firm evidence about how the law is being implemented.

The Department of Health and Human Resources has almost no national data, and does not require the states to report data that would enable the federal government to do reliable monitoring.

Moreover, the federal government has shirked its oversight responsibilities. Although HHS is required to audit a state's compliance with 96-272, it is almost impossible to fail an HHS audit. Failing more than once is almost unheard of. Advocates know that any state that has failed an HHS audit is maintaining an unimaginably poor foster care system. One HHS regional director has acknowledged to the press, in response to a quoted comment that federal audits are very perfunctory, that "the guidelines are very generous to the states."

II. Specifically

In the states in which the ACLU has pending litigation, we have uncovered widespread violations of federal law -- violations that reflect serious harm to children. All of these states have passed recent federal audits.

A. Louisiana

Louisiana failed its HHS audit in 1983. To bring itself into compliance, the state established an administrative review section, in which reviewers read each child's case, and attend case staffings, and fill out checklists on 96-272 items. However, nothing happens as a result of these checklists, even when 96-272 requirements are not met in specific cases, nor are these checklists ever tabulated by either the state or HHS. In our role as plaintiffs' counsel in our Louisiana lawsuit, we obtained and compiled the individual forms. The state's own data shows the following clear violations of federal law.

* Federal law requires that reasonable efforts be made to avoid the need for foster care placement and that services be identified and provided to enable a child to be reunified with his or her parents whenever possible.

> Only about one-third of the children coming into foster care were receiving any family services prior to placement.
>
> In one-quarter of the cases (in which the children were in placement and the plan was return home) needs were identified for families and children where there were no resources available.

* Federal law requires that each child have a case plan that assures the permanent placement of the child. Children who go into foster care in Louisiana stay in state custody for substantial periods of time, with little effort being made to discharge them either to their own families or into adoption.

> In almost one-third of the cases (in which the children were in placement and the plan was adoption) court ordered services were not being provided.
>
> Approximately fifty per cent of the children in foster care in Louisiana have been there for more than twenty-four months. More than one-third have been in foster care more than three years.

* The fifteen children who are plaintiffs in the lawsuit have been in foster care for the following periods of time:

Seven years -- a brother and sister five and seven when they entered foster care.

Nine years -- a boy five years old when he entered foster care.

Nine years -- two sisters who were three and four when they entered foster care. The younger child was adopted after the lawsuit was filed.

Six years -- two sisters, two and three when they entered foster care.

Five years -- a boy who was six when he entered foster care.

Nine years -- a boy who was four when he entered foster care.

Three years -- sisters who were four and three when they entered foster care.

One year -- four children, eleven, ten, eight and six when they entered foster care; they were returned after their mother joined the lawsuit.

* Federal law requires that children receive appropriate treatment, in the most familylike setting, while in foster care.

> Approximately fifty per cent of the children in institutions are there unnecessarily, according to the state's own criteria.
>
> Almost one-third of the children in foster care had not had a physical examination in the past twelve months.
>
> In more than one-half of the cases, the worker did not visit the child as frequently as required by state law.
>
> More than ten percent of the foster homes supervised by the state exceed the state's own limitations on the number of children that can be in a particular foster home.
>
> In one-half of the cases foster care workers did not visit children as required by state law and the child's plan.

* Federal law requires that all children's cases be reviewed every six months, either administratively or judicially, and that a judicial dispositional review be held after 18 months.

> One-quarter of the children have not received the six month planning reviews required by federal law. In urban areas the percentage is much higher; more than half the children in New Orleans did not receive such reviews.
>
> In one-quarter of the cases in which a case has been reviewed by a state court and the court has issued orders requiring the provision of specific services or reports, those orders have not been followed.
>
> In one-third of the cases, no judicial dispositional hearing had been held after 18 months.

The state's own data make out a strong enough case to show widespread violations of federal law. However, in preparation for trial, we are also conducting a scientific survey of a random sample of case records, concerning 700 children, to further document these violations and consequent harm to children. For the children of Louisiana, P.L. 96-272 has meant very little thus far, except to provide lawyers with rights that can be enforced through the federal courts.

B. New Mexico

The ACLU obtained a court ordered consent decree in New Mexico on the eve of trial in 1983, after documenting widespread violations of federal law and constitutional rights in that state. The decree focuses on the planning and access to adoption provisions of P.L. 96-272. At the time the decree was entered, 49 percent of the children in New Mexico were in foster care for 24 months or longer, the highest percentage of 35 states surveyed. The federal judge found the New Mexico foster care system to be no more than a long term custodial care arrangement.

The consent decree mandates time periods for specific planning events, mirroring the intent of 96-272 but providing more detail. It also requires explicit caseload limitations, training, and periodic internal review, as well as judicial review and Citizen Review Board review. Nevertheless, extremely vigorous monitoring and frequent renegotiation have been required to try to bring the child welfare department in that state into compliance.

Children in New Mexico have no doubt benefitted from the consent decree, based on 96-272, but the state is a long way from meeting the minimal standards of the law. For example:

> Large numbers of workers carry caseloads in excess of what the department itself has agreed is reasonable.
>
> None of the children in the state's custody have plans that contain the elements required by the consent decree, which is based on 96-272.
>
> Sixty-five per cent of the children eligible for adoption have never been referred to the adoption unit.
>
> In only one-third of the cases of children freed for adoption and not placed in adoptive homes had adoption even been discussed with long time foster parents.
>
> One third of the children for whom adoption was the plan were never referred to legal counsel to be freed for adoption.
>
> Six month reviews did not occur as required for approximately one quarter of the children.
>
> The department does not maintain reliable data on the occurrence of 18 month judicial reviews.

Despite this abysmal record, New Mexico has recently passed its HHS audit. A motion to have the department held in contempt for substantial violations of the consent decree and to have an administrator appointed is pending in federal court.

C. Kansas City, Mo.

Our case in Kansas City, G.L. v. Zumwalt, was filed in 1977. It was settled in 1983 by a Consent Decree approved by the court. The Consent Decree requirements parallel the requirements of P.L. 96-272 but they are not identical and the G.L. Decree contains additional specificity. Last year, the parties to the G.L. Decree, with the help of a monitoring committee of prominent Kansas City residents, developed a system for measuring compliance with the Decree. The first report from that new system, representing the reading of a random sample of 25 cases was issued in October, 1987.

The report presents a mixed picture. Both the Decree and P.L. 96-272 require case plans be developed every six months for children in care. Kansas City does quite well in meeting this requirement. 100% of the cases reviewed occurred on time. There were some problems with the plans. For example, 40% contained no statement of the progress the family made in the preceding six months as required by the Decree and implicit in the requirement of P.L. 96-272 that the plan discuss "the appropriateness of the services that have been provided." But, most of the other requirements of the Consent Decree and P.L. 96-272 were met at the case reviews in Kansas City.

Much more troubling is the provision of services. Both the Consent Decree and P.L. 96-272 require that the plan "assur[e] that the child receives proper care and that services are provided" that will result in the child returning home or being adopted. For children entering foster care, appropriate assessments, the necessary predicate for determining appropriate services were not done 23% of the time. For those children whose plan was adoption, none were moving expeditiously toward that goal.

The most troubling result of the Kansas City review was the level of abuse, undetected or unreported, in foster homes. 25% of the children in the sample were the subject of abuse or inappropriate punishment. 88% of those reports were not properly investigated. This amazing result violates the state's own procedures, the Consent Decree, 42 U.S.C. § 671(a)(9) and 42 U.S.C. § 5103 (b) and (c).

D. Louisville, Kentucky

In Louisville, Kentucky, the Project obtained a Consent Decree in a state court case charging the state with abuse and neglect of children in its care for failing to obtain adoptive homes for children who need them. Although the case is not based on P.L. 96-272, the Consent Decree requirements that children expeditiously receive adoptive homes closely tracks the emphasis in federal law on achieving permanency. The most recent statistics prepared by the Kentucky Cabinet for Human Resources measure the time it took the state to achieve each of the 10 or 11 steps necessary to have a child adopted. Kentucky's own statistics show that for half of the steps, the state achieved the step less than half of the time. In other words, children in Louisville continue to languish in temporary foster homes in Louisville even when everyone thinks they should be adopted.

One of the steps required by the Louisville decree is identical to the requirement of P.L. 96-272 that there be a case plan within six months of the child's entry into care. Kentucky's own statistics show that in 1987, only 55% of Kentucky's foster children received the case plan on time.

From everything we have learned, it is clear that many of the neglected, dependent and abused children who were the intended beneficiaries of P.L. 96-272 are simply not receiving its benefits. Although Congress intended to limit unnecessary foster care by mandating states to make reasonable efforts to avoid the need for foster care in the first instance, many states are meeting their own fiscal needs by ploughing that money straight into foster care.

The number of children in foster care is starting to move back up after a decline in the early 80's. Foster care itself is little better than it was when this reform legislation was passed. Critically important planning and policy making is severely handicapped by widespread lack of data, and unreliable data. The most recent foster care population figures are three years old.

HHS' efforts at enforcing this federal legislation and providing critically necessary protection to this nation's most vulnerable children are so negligible as to be irresponsible.

Repeatedly, day after day, we learn about such children as the seven year old child in New Mexico given back to a negligent mother by an inadequately supervised foster mother, who then burns down the family trailer; the toddler in New York returned to an unsupervised home who is then beaten to death; the six year old in Louisiana who asks the foster parent who will be caring for him for only one night -- before he moves on to yet another temporary placement -- "Is it all right if I call you Mommy tonight?"

On behalf of these children, I welcome the opportunity to share some of this information with the Committee. And I most vigorously urge Congress to take the necessary steps to insure that the protections of this legislation, adopted with such high hopes in 1980, finally become a reality for this country's waiting children.

Boyd A

Former New York City Foster Child

My name is Boyd. I'm 12 years old and I live in New York City. I have 4 brothers and 1 sister. For the last year or so, I have been living with my mother and my brothers and sister. I'm very happy to be finally living with my family.

When I was younger, I was in foster care for a long time. I went in and out of foster care a lot of times. I was in so many foster homes I can't remember them all. I do remember one home they put me in because the foster parents only spoke Spanish. I don't speak Spanish. I didn't like foster care at all. It was terrible to be put in lots of different homes with lots of strangers, knowing they wouldn't let me be with my mother. I wanted to be with my mother and my brothers and sister.

I had a lot of social workers. I had so many I can't remember them all. They all said they wanted to help me, but I think that was a lie. They never paid attention to me, or what I wanted or needed. They all said my mother couldn't take good care of me but I don't think that's true. One time I ran away from a foster home and back to my mom, but the social workers wouldn't let me stay. That made me feel very bad. The only help I wanted from the social workers was to go back to my mom, but they didn't help us with that. Because I've lived so many different places, I've also been in lots of different schools. I want to do well in school but all this moving around has made it very hard for me to keep up with my class.

It's hard for me to tell you how bad foster care is. My mother used to come to visit me a lot when I was in care and when she left, it felt like the whole world was leaving me. It was so hard that sometimes I almost didn't want her to visit because it hurt so much.

I know how bad foster care is and I want other people to know so that what happened to me won't happen to other kids. I worry about all the other kids who are in foster care or who will go into foster care. I don't think they ought to take kids away from their parents and put them in foster care. If a family needs help, they should help them, but not by using foster care.

Acting Chairman DOWNEY. Thank you. Mrs. Grayson.

STATEMENT OF MARY GRAYSON, PRESIDENT, DISTRICT OF COLUMBIA FOSTER PARENTS ASSOCIATION

Mrs. GRAYSON. Mr. Chairman. I am Mrs. Mary Grayson, president of the District of Columbia Foster Parents Association. I thank you for inviting me to testify at this important hearing. On behalf of all the foster parents and the children, I thank you for caring enough about the foster care program to hold this hearing and allowing me to express our concerns.

Our group is committed to the care of the District's children who are unable to live with their own parents for various reasons. I have been a foster parent for almost 40 years, first in Virginia, and then in the District. I have cared for over 55 foster children during my career as a foster parent. I am also the founder and have served as president of the Foster Parents Association in the District since 1973. I was also a foster child. I know from experience what it is like to live in a home with people other than; your family.

We are foster parents because we love children. Children often arrive at our homes in the middle of the night, with only the clothes they are wearing. Sometimes foster parents must wait as along as 2 months before they receive money to buy these children clothing. Of course, foster parents will use their own money to provide proper clothing for their foster children. We will not send them to school in rags. We will not wait two months to make sure that children have proper clothing. We want to make sure that these children receive the proper care and services they deserve.

Being a foster parent is not an easy job. When I first formed the association, I had over 900 foster parents. Today, there are only 300 parents in our association. Also there are 200 in the consortium, which make us 500 foster parents in D.C. It is difficult to find people who are willing to be foster parents. You do not become a foster parent to get rich. In fact, you probably would have more money if you were not a foster parent. Foster parents are always paying for things with their own money because the money we receive for caring for children is never enough to cover the things they need and want. I want to make a comment here: Christmas, Easter, graduation, all of these things fall on the foster parent. There is no extra money for any of these things. It is never enough to cover the things they need and want. The amount of money we receive per child is about $10 per day per child. When I came in as a foster parent president we were getting like $45 a month. Right now it is $80 and $70 to feed and clothe children. But $40 would not even buy a pair of sneakers for a child to wear. I do not want to say this, but I have to say it.

The children we see today are different from the ones that we cared for 10 years ago. These children are often very, very troubled. They may use drugs or alcohol or their parents may have used it, or have emotional or school problems. They are often depressed and they do not understand why they are in foster care. The main thing they really need to know that it is not the foster mother that put them in care. They come with a chip on their shoulder from their other own natural mothers' problems. And we have to bear the burden of the heat of the day with these children. Some of them do get moved. I am listening to these gentlemen, who were talking about being moved from place to place. I was in foster care and I never moved. Because I felt like the people there were trying to help me. I appreciated it. I stayed there. I made up my mind that if I made it I was going to try to help somebody else to make it. And I thank God I made it.

I would like to say to of you, you get moved because of your behavior. If you do not behave in your own home you get moved from place to place. The reason why most of them are coming to us now is because they will not mind their own mothers. We used to get children that mother died, like mine, or either there was some problem. Now we are getting children that parents are just saying, here I cannot do anything with him. You take him. So I think we still are doing a beautiful job.

As I was saying, the children are awfully destructive. Many foster parents have had their homes and property damaged, even had fires set by foster children. We receive no liability insurance from the Department of Human Services. They never even offer us assistance when these situations occur. We also had a foster parent named Mrs. Johnson killed down in Maryland by a foster child whom she only kept about 6 months and loved him and treated him fine. But when he got on drugs he went back and killed her. None of her family received any liability or anything coming from Human Resources. So we are begging you all to look into liability for foster parents, for their homes and for their children and for the safety of all of us.

Foster parents receive no Social Security benefits. You can see why people do not want to become a foster parent. But it is a rewarding job. I am proud to be a foster parent. For many years we have been trying to work with the Department of Human Services to solve problems we identified with the foster care system. For many years we have been told that task forces and panels will be appointed to study these problems. All that happens is that a report is issued that is then forgotten. The problems still continue. The children do not get the services they should get. Here are some of the problems we have identified:

Quality of service. Many foster parents complain that the social workers are unprofessional and need training. Some foster parents are fearful of reporting rude and nasty behavior by workers, out of fear that their homes will be closed or children moved.

Social workers. Foster parents should be informed as to who the assigned workers are for children placed in our home. Too much confusion exists as to who are the social workers for the children. They should also provide us with more background information about the children in our care. We need to know something about them.

Too many workers assigned to our homes. The reorganization of the Child and Family Service Division has meant the assignment of more social workers to some of our homes. This has caused much confusion, inconsideration and is time consuming. In other words we have a different worker for each child. If you have five children you get five social workers. We recommend that only one social worker be assigned to each foster home.

Family visitations. Social workers should assume more responsibility for family visitations. They should transport the children for visitation purposes, and supervise visits when needed.

Increase in board and care payments. We need that very badly to be able to provide care for the children. The payments have not kept up with the cost of living.

Special funds. We should be able to request additional funds to cover the special needs the children may have. For example, to buy new clothes for a school dance or for a child for class trips. We also have to sponsor class trips.

Underpayments and delays in payments. Foster parents cannot afford to spend their limited personal funds up front for child care expenses, including clothes, only to be reimbursed by the department much later. Emergency procedures should be established so that corrected payments can be made within 48 hours. Often because social workers fail to inform the payroll office that a child has been assigned to a foster home, that foster parent must wait months to be paid. Sometimes foster parents continue to receive payments for many months after the child has left home. Many times payments to parents are not made on time. And we are supposed to receive our payments on the first day of each month. I was still receiving calls from parents that had not received their pay this month until the 8th of April. That meant that these parents had to use their own money to provide food and clothing for their foster children.

Respite care and babysitting, emergency and night services should be provided to foster parents. Being a foster parent is a demanding full time job. In other words we work 24 hours a day, 12 hours a day and 12 at night. Most times sitting in the hospital half of the night or maybe all night long. Then have to try to go home and take care of your kids the next day and get them out to school. It would be helpful to foster parents if we had these services available to use to give us a rest when we need one. We have no vacation. We do not get any vacation pay. We carry the children on trips and we have to pay for the motel or the hotel or wherever we carry them, or with our families. We have to pay.

Recruitment of foster parents. There has been poor or no follow-up by the department when we have referred foster parents to the department. There also seems to be the need for more active efforts to recruit new traditional foster care parents. It is much more costly for the District to pay institutional care, group home care secured through contracts with private agencies than to pay foster home care. I know that Congress have wondered why they have to pay so much for the foster care. Foster care money does not go to the child. I want that to be understood. It does not come to the foster parent. It comes to the provider and most of it is for the overhead expense of the person that is operating the home, like a group home or institution. Something, I would say, like a contract. That money goes into that. But you can count the money that comes to the child and to the foster parent.

I have heard this young gentleman say that they think we get *x* amounts of money for each kid and that we are using that money for other things. But I know how they feel about that. But, I want to correct the statement right now. That money does not come to us. That is why I am here today, to find out why we are not receiving the money that comes into foster care that I hear that is in the budget. I went to the budget hearing last month. I heard Councilman Crawford say he sent *x* amounts of dollars up for foster care. I know he did. But it did not get to us, the foster parents and it did not get to the children. It gets to the providers in the institutions and the contractors and this is where my problem comes in. I have a very bad problem with that.

Group home have ruined our children. Group homes have got the children to the point that they would rather stay in a group home than be in a foster home. I can understand that, because the foster home does have a mother and father image. That is something that foster children do not want, is the mother and father image. They like the group home image. Why? Because they can be on the streets all hours of the night and do the things that they want to do. So this does give them a very independent feeling. I will go on from there.

Training of foster parents. We need to have better training for foster parents, and better support from the Department of Human Services.

Liability insurance. Minimal liability insurance should be provided to foster parents when children damage their homes and property.

Social Security. Many of us have devoted good working years, such as me, to full time care for foster children. We feel that we should be provided minimal Social Security coverage through the Department of Human Services. When I come out I cannot collect a dime of Social Security. I cannot get any liability. I cannot get any kind of help unless I go out as a street person, probably on welfare myself. I will be too old to get my home fixed up. I am too old to buy another one. So, actually that means that I have, like my husband did, devoted all his money that he worked for and served in the service for at Walter Reed. All his money went toward foster children, money that he worked for. Had he not been working at Walter Reed in order for me to get Social Security I would be left out. And as I am out right now, at my age right now, I am asking the Government to give me a house to keep their children, because the home I have been in for 21 years is being sold. And they told me the only way that I could get any help from them, and that is to put their children in shelter, I can go in the senior citizens if necessary. In order to continue my job, they told me I had to go on the street, be on welfare or either be a person that would be a homeless person, in order to get a house to continue their kids in. I only did these things to try to find out just how much the Government is really doing for foster children and for me, as a foster parent.

Monitoring regulations. Systematic procedures seem necessary to monitor the placement and maintenance of children in our homes. Regulations should be developed in conjunction with our association and updated. Training social workers should not be used for monitoring purposes. As foster parents, we should have someone to turn to when the Department violates its own regulations. By that, I mean the monitoring came in after the Department of Human Resources violated their own regulations by putting children in unsafe foster homes where mothers are working and where the kids are left with somebody else, some kind of caretaker. But Human Resources knew when they monitored that home whether there was somebody in there or not who would be in there to care for the children that burned up. My heart went out with those kids who burned up because all those things drop in the foster parents lap. But that should not have been put in the foster parents lap. Those are mistakes that come from Human Resources and when they make their mistakes they dump it on the foster parent also. So we want to let you know that our hearts went out to those kids that burned up.

Not only did our hearts go out to them, our hearts went out to our foster mother that got killed in Maryland, because we understand. When I told Mr. Crawford about the woman getting killed in Maryland, he told me that was Prince Georges' County business. That was my business too because I am a foster mother and everybody's business. So I am just letting you know that some of the things that we foster parents have to bear is unfair.

Mr. Chairman, foster parents should not have to beg to get the necessary money and services to care for the children in our care. We know what the needs are for our children and grandchildren. The needs of foster children are the same. These children are homeless through no fault of their own. But by the grace of God, could be one of your children. Please help us improve the quality of life for the children in our care. That ends my testimony and I want to say to the kids here that I appreciate your coming and making your testimony. But I want to say to the Chairman, if we do not have foster homes where are these kids going. Now we are getting more children coming in Human Resources. And if we do not soon open up some foster homes, these kids are going to be laying up on the desk sleeping like I had to do. I am up all night long trying to find a placement for a baby. I am helping you, Human Resources. I am up trying to find a placement for a 10-year-old. I am up trying to find a place for teenagers whom nobody wants. So I mean, I know what it is to be a foster mother. I know what it is to be a foster child. I used to sit and wonder why was I a foster child. I am also the lady that you read about that had the 49 foster children, about a few months ago. I found my story to be really rewarding. I got a lot of good answers and I want to let my young boys know all foster mothers, there are some good and bad in everything. But I thank God that we have more good foster mothers than we do bad. And if the kids would behave you would not have to move around. Thank you. [Laughter.]

Mr. MORRIS. I have something to say to Mrs. Grayson. From what I have been hearing from her testimony, she is speaking on the behalf of the foster parents. I have taken into consideration, she says she has been a foster child too, but I just disagree with some of the things that she says, that foster kids are moved around because they have a chip on their shoulder. I feel that the foster kids move around because the foster parents, themselves, have a chip on their shoulder. Because they feel that since this is not their child, they should not put up with any of their misbehavior. So that is why they have them moved. It is not because that we misbehaved, or that we are angry because we are in foster homes.

Another thing, all foster kids do not use drugs. I have never used drugs in my life and I have not misbehaved or anything like this, so I think that you are only speaking of maybe a portion of the teenagers, maybe, up here in your area. But that should not be generalized to all foster children. Another thing from your testimony that it seems that you are speaking for your self-interest. Because you should be a foster parent for the right reasons, to care for the child, not to see how much the Government will do for you, you should never expect any rewards from the Government or anywhere else. Because if your heart is not in it, then you should not expect to get anything out of it.

Mrs. GRAYSON. I would like to answer this young man. I know when I went in it 20 years ago, 30 years ago, we only had gardens. We raised our food and everything, so we did not get any money, maybe about $45 a month. We still took children out of love. I think when you came into foster care, love was just about over where you are concerned from looking at your age, I can feel that I have kids that are in their thirties that are doctors, lawyers. I have kids out there, really, out of all of my kids, I only had about 3 to go astray. So it must have meant that I loved them and they loved me. They are doctors. I have kids out there. I have a marine in the service now. He is 28 years old. So I mean I feel like I have done a very good job and it has been rewarding.

What I am trying to say about the money bit, if you go to school in a pair of less than $40 shoes and people are sitting there looking at you. And they are sitting up with Nikes and you name it, you know all the brand things that you like. We cannot afford to pay $75 for a pair of shoes for five children. We got to shoe five not one. So you must take into consideration that, right now, I am on a fixed income after my husband died. I am still in foster care with a fixed income which is really nothing. But I am still sharing. And it is rewarding because I am sharing with the children and the children are sharing with me. Why we came here to ask this Government of money, it takes money to do anything now. If you can name anything you can do without money, may God bless you. You continue.

Acting Chairman DOWNEY. I want to stop the debate just for a moment. But both of you have been very, very good in your exchange in helping to enlighten us on this. Mr. Kolbe. Congressman Kolbe, if you would testify at this point and then we will open the panel up for some questions.

STATEMENT OF HON. JIM KOLBE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. KOLBE. Mr. Chairman, thank you. I appreciate the opportunity to be here and also to listen to the testimony of this panel, which I think is most enlightening. I just came from a task force hearing dealing with the elderly and long-term care. I mention that not because it is one of the many scheduling conflicts that we have. We all have that. But, I think it is an interesting juxtaposition of dealing with two ends of our age spectrum, the elderly and the very young.

I want to congratulate you on holding this joint hearing. I think it is very much needed. I appreciate the fact that you are taking a look at possible amendments to Public Law 96-272. I am here today as a parent. I am here today as a legislator. I am here today as a concerned citizen. I have served for 12 years on the board in Arizona with the Arizona Advocates for Children, which I think is an outstanding organization that advocates on behalf of children. I have been a past president of the Pima County Foundation for Children and Youth. I still serve on that board. I still serve on the board of the Casa de los Ninos Crisis Nursery, which is the first crisis nursery in our country.

I would just like to take a moment if I might, to tell you personally how I came to this particular interest in children. It began 13 years ago when I went to San Francisco during a moment of crisis for an airlift of orphans from Saigon. I was doing some consulting work for a foundation in Tucson that was working on behalf of children when they asked me to go to San Francisco to see if I could assist. I went at a moment when, many of you will remember, a C-5A had crashed and the people that were working to get these youngsters out of Saigon were emotionally devastated. I found myself thrust into a role of helping to coordinate that operation for the next 3 weeks.

From that experience has come a continuing and abiding interest in children. Those who are adoptable. Those who are without permanent families. Immediately after that experience we helped to bring the first group of 15 handicapped Vietnamese teenagers to Tucson and resettle them with a Catholic priest who had been responsible for their care while in Saigon. I must say it was a very successful effort.

With the foundation, along with Georgia Vancza of the Arizona Advocates for Children, whom you will hear from later today, we organized a committee to aid refugees. Tucson became the first major community resettlement program in Arizona, and one of the first in the country. We resettled in a short period of time more than 500 homeless Vietnamese, Cambodian, and Laotian youngsters and adults.

A direct result of this, my interest in advocating for unattached kids. A couple of years later, I was elected to the Arizona State Legislature and I made this my particular legislative interest. If I were to look back on my experience as a State senator for something I am proud of having accomplished, it is the passage of foster care review board legislation. At that time only the second in the country and a model that has been used by many other States around the country.

The foster care review board in Arizona has played an incredibly important role in focusing the attention of legislators on the needs of foster care and adoptable children in our State. That board, with its annual report, highlights to legislators issues that need to be dealt with. That legislation brought about the first foster parent training in Arizona. It changed many of the adoption statutes. It has also helped to oversee the funding and make sure that we have adequate funding.

Another result of my interest in kids and working in the State legislature, I became aware of and familiar with a young person who was getting close to the age when the foster care system was going to stop having an interest in him. He had no parents, no brothers, no sisters, no place in the world to turn to. I became acutely aware of this and subsequently this young man moved in with my wife and myself and became a part of our family. He has since changed his name to ours. I have developed a parent/child relationship from that with Kevin. Kevin has had his ups and downs I must say, but Kevin is doing very well today as a young 23-year-old man and I am very proud of him.

That brings me then to the very brief point I want to make with you today. That is that the well being of children is really, if you want to put it in one very strict sense, it is a matter of economic policy in our country. The question very often is are we going to pay now, or are we going to pay later. We see this over and over again in the welfare system and the corrections system. If we do not deal with the problem up front, we are going to pay for it throughout the life of that youngster and as an adult and then as an elderly person. We all know the value of prevention. We all know the analogy of a dollar spent on immunization can save at least $3 in health care costs later down the road.

There is also something else we need to be taking into account and that is the changing demographics in our society. In the last 20 years we have had a 45-percent increase in those who are over the age of 65. At the same time, there has been a 7 percent decrease in children under the age of 18. Some might argue that is a reason that we do not need to pay as much attention. But I would argue, again from an economic standpoint, it is precisely the opposite. That is a resource that is more valuable to us than ever before. If you put it strictly on an economic basis, the children today have a greater economic value than they have ever had. For future generations it is so important that we deal with this problem now, so that we have the kinds of leaders of the future and the work force that we need in the future. You have heard from businesses who are engaging in all kinds of remedial programs for entry level employees. They are doing that because somewhere along the way the system has failed. We have to find ways to ensure that todays children become a productive part of our future work force, due to the increased societal strains that are going to be placed on that work force.

Again, Mr. Chairman, I want to thank you for holding this hearing and looking at possible amendments and changes to Public Law 96-272. I think the experts that you are going to hear from this day will have far greater knowledge than I ever could about the specific kinds of changes that need to be made. I think it is an excellent law. The amendments were badly needed in 1980 and have had a very positive impact for children. But it is time to take a look at that again now, because I think we can make it work better. And I thank you for the opportunity to talk to you today.

Acting Chairman **Downey**. Well, I want to thank you on behalf of the subcommittee, Jim, for testifying and we hope that you will be available to help us in the future. The 1980 law seems to be a pretty good one, the problem is that, as we are finding out now, it just simply is not being enforced. We have to enforce it, or make changes to see that it is enforced. We look forward to working with you, because this clearly is not a partisan issue and we do not want it to become one.

Mr. Kolbe. You are certainly correct, it is not a partisan issue and I certainly will be available to assist you in anyway on suggested changes or amendments.

Acting Chairman Downey. I appreciate it.

Mr. Kolbe. Thank you, Mr. Chairman.

Acting Chairman Downey. Daryl could you tell us what was the rule you broke that forced you to be moved from the Dardens?

Mr. Morris. I would like to decline from answering that question. I would not like to answer that question.

Acting Chairman Downey. OK. You told us that you are angry about this process. Do you see a time in your life when you will not be angry about what happened to you.

Mr. Morris. Well, I am not angry all the time about it. But when I think about it, about all the things that happened in the past, I get upset about it. Because for each movement, I think the adolescents or the youth really do not have any knowledge of it before it is coming and they do not have anything, no input, in the decisions that are being made about their lives. OK, I feel that each youth, we should at least have some knowledge or have a part in making decisions, not making all the decisions, but let them ask us questions about how we feel instead of making all the decisions for us, because they have no idea how we feel. And I think that we should have more of an active role in what is going to effect our lives in the future.

Acting Chairman Downey. Would that be the one big change you would make in the way the process worked? Tell the committee in your own words, if you were to make one or two changes to make this system better for you, what would you recommend that we do?

Mr. Morris. The main thing that I would do is get more input from the youth instead of having the decisions be totally, made for them. Get input from the youth, because a person that really has not been in the situation and, like an administrator, what do they know what is best for the child; they have never been in that situation. They do not ask the child. So I would incorporate more youth-adminstration contact on decisionmaking.

Acting Chairman Downey. Boyd, why don't you tell us your suggestions in your own words. It seems as though, if anyone has had a horrible time, you have had it. What would you change? If you could change one or two things, what would you recommend that we change? We make the rules. We do not necessarily always have them followed the way we would like and that is why we are here today. What would you, about what has happened to you, what would you want to see us change?

Boyd A. I would like to see that when the mother really cares, and she wants the kids back, I think that she should get them back. I do not think that these people should make excuses about, making excuses saying that something is wrong with her or something. I just want that and one more thing. Just like he said, that they should know how we feel about it as well as they feel about how we are living there and everything. I think they should know how we feel they are treating us. One other thing I want to tell you about what she said. She said that some mothers just give them up and do not care, my mother cared. That was an emergency, that was why she gave us up for. It was just an emergency and when she wanted us back, they did not let us go back with my mother. That is one thing I do not like about it.

Acting Chairman DOWNEY. Did you have the feeling that some of the people in the system, the social workers, were on your side, or on somebody else's side?

BOYD A. Well, the social workers were definitely on somebody else's side.

Acting Chairman DOWNEY. And what about the foster parents that you stayed with. Whose side do you think they were on?

BOYD A. See, it depends on which one.

Acting Chairman DOWNEY. Some were good and some were bad?

BOYD A. Yes. No. About one or two of them were good, but see I try my best to act good, but these little kids where I was they were being treated better than I was. And then while we were running around, they could hit me and she would say nothing. And then I would be getting the punishment and they would be having fun and laughing at me every time I get in trouble. And if I would do that to them I would get hit. That is not right. It is not right.

Like I said, when I was, I said once, foster care is like a maze. When you get in you have to find your way out. You do not find your way out. You stay with somebody else forever. You cannot get out, if you stay in. That is how it is.

Acting Chairman DOWNEY. Ms. Lowry, in your testimony you made a point about one of the foster care citizen review boards that exist, I believe, in Kansas City, MO. Are you familiar with that activity?

Ms. LOWRY. In Kansas City, no.

Acting Chairman DOWNEY. Apparently——

Ms. LOWRY. No, I am sorry, it is not a foster care review board. I think you are talking about the Consent Decree Monitoring Committee.

Acting Chairman DOWNEY. Yes.

Ms. LOWRY. In Kansas City, MO.

Acting Chairman DOWNEY. I am sorry.

Mr. LOWRY. That is right. It is somewhat different, that is right.

Acting Chairman DOWNEY. Can you tell us a little bit about how that works?

Ms. LOWRY. Well, there are three distinguished citizens that were appointed to resolve disputes that had arisen in Kansas City. In Kansas City we have a consent decree based on the city's failure to comply with Public Law 96-272. The case went to a consent decree and we found, as is typically the case within the few years after the decree went into effect, that there was no more compliance with the consent decree than there was with Public Law 96-272. We filed a contempt motion. We believe that generally court is a last resort on these issues and that there are better ways to resolve these things. We go to court when there is no other way. And as a result of the contempt motion, we agreed to set up a committee of three citizens jointly chosen by plaintiffs and by the defendant who have responsibility now in a more neutral way, and we hope a less adversarial way, for monitoring what is going on with the foster care system there. We found the most important task for them initially was to find out what was going on. As in most systems, even systems that purport to have a computer system, you cannot tell what is happening to the kids. The computer system is something that nobody really puts a lot of faith in. And so their first task was to try and help the department establish some process by which we could really understand what was happening to the kids. And because the computer system is so poor, we went to a system of case readings.

Now we are able to identify the problems there and we are in a process in which, I think we have pinpointed a number of the problems. We are waiting for the department to come back with a plan, essentially a corrective action plan. We are hoping that this will be resolved without a return to court and that the committee will be able to pressure the department, both to come up with reasonable recommendations and then to implement them. If not, we will go back to court. But we are trying, after first creating an adversarial situation, we are now trying to deescalate this, and have this be a working process as opposed to a confrontational process.

Acting Chairman DOWNEY. What about the resources in the case of Boyd's situation in New York. There are 17,500 cases that the city has to deal with, so that the system appears to be overwhelmed by the sheer numbers. Are there remedial corrective actions? Is it better computers? Is it more case workers? Is it a recognition that the law should be heavily weighted on the side of making sure that the child is reunited with its parent? What do you recommend for us in the short term to correct the problem in the city of New York where the case load seems to be unmanageable?

Ms. LOWRY. Well, the case load in the city of New York of course is very high and it is ballooning. It is going to get higher and higher and higher. The projections are that it is really taking off. What I recommend to the committee is something different from what I would recommend to particular States. There is a shortage of money. We know that there are no blank checks anymore, if there ever were. But the mismanagement in these agencies is astronomical. The misuse of resources is staggering. In New York City there is no clear system for identifying kids who need preventive services who can be kept at home. There is no system for ensuring follow up. There is no system for ensuring monitoring. So it is very common to have three or four different agencies involved with a family.

For example, in Boyd's situation we took depositions of workers who were involved, supposedly, in monitoring the families. I do not know how much money was spent on this family in terms of workers' salary, but I can tell you that there was very little benefit received by this family. So we would ask one worker, who is responsible for ensuring that the family is getting counselling? The response would be: the other agency. We would ask the other agency, well who is responsible for ensuring the family is getting counselling. The response would be: the other agency. And it was not that we happened to hit the three incompetent workers in the system, it is that the system is not managed. If businesses were run the way these systems are run, they would go bankrupt very quickly. The only people who are going bankrupt now are the kids and their families. Louisiana, a State hit with a very serious fiscal crisis, failed its 1983 HHS audit, which as I said earlier is very hard to do. You can imagine how bad that system is.

Acting Chairman **Downey**. The committee is familiar with HHS.

Ms. **Lowry**. So the result is, what they did then to bring themselves into compliance was that they hired 35 administrative reviewers. Now that cost them a lot of money and these administrative reviewers attend planning conferences and read case records and they have a checklist. They have a Public Law 96-272 checklist; that is very nice. And they check off whether in each specific case various requirements and protections of the law have been met. They often check no. What do you think they do with those forms? We have them now. The State never did a thing with them. They got 35 people sitting there at a cost of a lot of money doing nothing that is helping anybody. So there is a tremendous misuse of resources. You have administrative layer on administrative layer.

Every time there is a scandal in a city or a State there is a commission, a super agency may be created. A new commission is created, they issue reports. Sometimes they put another layer on, they set another unit up. Nobody ever looks at the management of the system. Nobody ever asks, simple basic questions like, what do you do with a case that comes in, in which services are necessary? Who is responsible for providing those services? What followup do you do? What kind of assessments do you do? Basic commonsense stuff. So it is easy, I think, to say that there is not enough money. Well, of course, there is not enough money for a perfect world, but there sure is enough money for a much, much better system. We are just wasting millions and millions of dollars, as well as these kids' lives.

Acting Chairman **Downey**. George?

Chairman **Miller**. I would like to followup on that point because we see that, unfortunately, the situation is not too similar to what we heard a decade ago. People like Daryl and Boyd, through no fault of their own, are now caught up in a system that once it gets a hold of them, is almost unable to either improve their lives or to let go of them. In your response to Mr. Downey's question, it appears that the law directs the system to do the very things you suggested it is not doing. We have a system that simply is drowning, either in its own incompetence, its own mismanagement, because of lack of resources or a combination of those. But there really is no ability.

I attended a meeting several weeks ago with people from all over the country who are involved in this system. People were talking of case loads of 200 and 250. We all know that the child, the foster parents, the natural parents, the other relatives, and the court officers are involved in the legal proceedings. There is not enough time in the day for anybody to conduct the kind of review that Public Law 96-272 requires. The 6-month review is held to question the appropriateness of that placement compared to the best interest of the child. The notion of taking a child from his family is to be weighed against what is best for the child, not for the convenience of the system and not for the convenience of the social worker. Yet we are talking to two children here where those fundamental questions were not apparently raised. If they had been raised, you could not have resolved their cases in the manner they've been. You do not have to listen very long to Boyd and to watch his mother to understand that a great miscalculation has been made, or a mismanagement of resources to try to unify this family.

Ms. Lowry. There is no question about that and there is no question that case loads are high. But what I think is very important for this committee to be aware of is, it is not a question of misbehaving kids. It is not a question of foster parents who are in it for the money. It is not the question of an evil case worker. What it again is, is that the system is not taking responsibility for trying to run itself well. So what you have, I can only characterize as the stupidest planning you can ever imagine. Case loads are split so that although workers have a very high case load, they are often doing duplicate work of another category of case worker who also has an inadequate case load, a very high case load.

For example, you have cases split by a worker responsible for a parent and by workers responsible for foster parents. If two kids are in the same family and are in two different foster homes, they will have two different foster care workers, or three workers. If the kid then moves on to another foster home, he gets another worker. Nobody knows the kid. Everybody has got a high case load, of 60 to 70 cases. The case comes in for two or three months and leaves, so that worker does not have time to pay attention to that case. Yet, there is an incredible duplication. If that worker was trying really to do the job, if the system would somehow make it possible for the worker to do the job that the worker should be doing, it would be incredibly duplicative. So it is just as stupidly managed as possible and the workers often appropriately put their attention to children who are in danger of being killed. Clearly, you have got to protect a kid who may get killed today, more than you look at the fact that a kid has been in care now 5½ years and is going no place. So kids stay in care 5½ , 6½, 10, until they walk away from the system or run away from the system most typically.

So the problem is case loads. The problem is lack of training. It is lack of supervision. It is just terrible, terrible mismanagement.

I think that if systems were properly managed you would eventually conclude there is also a shortage of resources. That we are not, we have not allocated the right kinds and the right amounts of money. But I am telling you that if you put twice as much money into this system tomorrow, you would have twice as many screwed up kids.

Chairman Miller. I think that point is one that is starting to be made, and probably will be made later today and in the subsequent hearings: that people who are most familiar, most engaged in the system, now question whether or not you would want to make a further investment in the current system. No questioning the law, but questioning the administration of that law. Whether there is just simply not enough money that could make it right. Whether it is inventory control, or case management, whatever the terms are that we want to use. That the system has simply, in a good many

States, clearly not all States, but in a good many States, has just ceased to function on behalf of the children. That was the intent.

Ms. **Lowry**. Well, there is no question about that and I think HHS bears a lot of responsibility for that.

Chairman **Miller**. Well, they will get their day under the lights here because they have obviously just taken a walk. Congressman Downey, myself, and others have hounded them to justify their actions and to tell us what they have been doing. The fact of the matter is they have participated in the violation of laws. They have, in fact, condoned it by their lax behavior. We will be more than happy to hear their testimony on this. I am afraid that they have become a part of the problem, or in fact, the problem.

Daryl, let me ask you something, how many schools did you go to while you were in foster care?

Mr. **Morris**. Let me see, I believe I went to, from eighth grade to the senior high school, I went to four different schools. While I was in middle school I went to, that was three different schools right in the eighth grade. From seventh to the eighth grade that was three different high schools right there.

Chairman **Miller**. All in the Houston area?

Mr. **Morris**. All in the Houston area, but maybe a cross over to a different school district, but it was three schools.

Chairman **Miller**. Were you able to participate in activities or sports or clubs?

Mr. **Morris**. Well, from the beginning I was not interested into getting into those sports because I knew the situation I was in. I was not going to kid myself. And I knew that a change would come. Why get really imbedded in sports when you anticipate a move not really that you wanted, but you just have to anticipate these kind of things.

Chairman **Miller**. What about friendships?

Mr. **Morris**. Well, the friendships they are going to happen regardless, but after you move away, you kind of lose it because you lose contact with your friends in a way. Not seeing them, but you can still talk to them. But if you move, they live on one side of the neighborhood, I was as young as I was, and I live on the other side of Houston, there is no way we could keep in touch.

Chairman **Miller**. Boyd, how many schools have you gone to?

Boyd A. I am supposed to be in seventh grade and I am in fifth. Every year that I was in school, I would change to another school. Like I never made a whole year. Since I was with my family, for about a year I think, I was with my family a year or more, I do not know. But, this is the first time I have ever been in school for a whole year.

Chairman **Miller**. Do you like school?

Boyd A. Yes, but I have fallen behind. I have fallen behind on my work and I am going behind because of all the schools.

Chairman **Miller**. Were you able to make friends in school?

Boyd A. Yes.

Chairman **Miller**. Pardon.

Boyd A. Yes.

Chairman **Miller**. Yes.

Ms. **Lowry**. I want to tell you all that Boyd is a very smart young man. And his mother is very committed to him obtaining a decent education and to her other children obtaining a decent education. If you want to see a waste of human resources, you just look at this family. I hope the waste is over. I hope things are changing for this family. These are bright children who could really be very productive citizens in this country and we have spent a lot of money to do everything we can to keep them from growing up healthy and productive.

Chairman **Miller**. Mrs. Grayson, let me thank you for your testimony. I have followed you for some time in my association with foster care in the District. And I think one of the first times I heard you speak was to a graduation. You talked about the difficulty of being a foster parent of an adolescent. You described how difficult it is for foster parents to provide for young people who wanted to go to a dance or wanted to have clothes or graduation gifts, all of the things that everybody who is sitting on this side of the table certainly wants for their children. It shows the failure of the system to reflect that adolescents have different needs than young children and to provide them. I enjoyed the exchange between you and Daryl because I think it is important for members to see that there are competing interest in this system.

But what we ought not, we ought not to allow a system that either victimizes the foster parents or victimizes the foster children. And clearly parents and children, foster parents and natural children are going to come from different perspectives. But we have to make sure that this system works for both these groups. I think one of the problems we have today, is that many Members of Congress and people elsewhere believe that the foster care system is what you are: a woman who has dedicated her entire life to taking care of children; willing to reach into her own pocket. Yet the fact of the matter is, that is not quite how this system is working today.

You mentioned in your testimony the changes in the children, the changes in your conditions, and the changes in the economy that are different today than when you became a foster parent. And I am not sure that we have really reflected that in our dealings financially with foster parents. I think that the exchange between you and Daryl was very important because we are going to have to come to grips with that in order to take that tension out of this system.

Finally, what continues to disturb me in the testimony of Boyd and Daryl is that somehow the system is not able to flexibly respond to an opportunity such as when a young man wants to live with his grandmother or a parent wants her children back. In Louisiana, I remember listening to a young woman talk about her children being taken away from her because she was in an abusive situation. Her husband was a alcoholic who battered her and battered the children. As a result, the children were sent all over the country. It took her 10 years to reassemble her children. Some of them had left her when they were very young and now were in high school or graduated. She brought them all back. But it took her 10 years, even though I think she had been remarried for 5 or 6 years to a housing contractor who provided a very good home and a very good living. She finally found one of her children in up-State New York. He was the last child who had been sent away because he was emotionally disturbed and educationally handicapped. Of course, he came back and went to school in Louisiana and was able to maintain his grades and live with his family. We cannot allow the remnants of that system to continue. Clearly, that must be the exception, but I am afraid that is not what is taking place today. I appreciate all of your testimonies.

Mrs. **Grayson**. Excuse me. I would just like to add to you, Chairman Miller, when you were talking about trying to straighten out the system, I was taking notes here. Now what was being said about Human Resources and foster parent and the kid staying in the system so long. When I first came it was 21 years of commitment, that is what kids got. Now they have an 18-year commitment. All right now, I want to say this much about human resources. I do not know what happens in Texas, but I can tell you about D.C. The judges and the lawyers are the ones that keep the children in care. The worker can go to court, if she wants to, but it is up to the judge whether that kid goes. I think we need to start with the judges and the lawyers of each child. I think when they go to court, I know it, I have been there. And they present the case to the judge that this child has not done *x* things good or bad or whatever, the mother has not improved her condition at home. I have some kids there that the mother lives with a man, OK, she is still with the man, this child cannot go home. So these are the things that you need to really take a look at. It is not that Human Resources will not let them go home; it is not that the foster parent will not let them go home; it is when the judge hears that the mother is still alcoholic or still on drugs or still living with certain man, or whatever is happening in her life. This is what these kids really want to know, that it is not the foster parent always and Human Resources, it is their own parents. If they could straighten out their lives, then it would be so much better for the kids. I have five at home right now that I am waiting for their mothers to get their act together so that these kids can go home.

OK. Not only am I am waiting. The workers are waiting. The judge is waiting. They review, they have a 6-month review, a 3-month review, and it is the same thing going on at home that was going on. Now it used to be so that they did get lost in the system when I first came in. I know that because I help phase Junior Village, and little kids like little bitty infants were in Junior Village who could not even pick up a fork to feed themselves. I carried my association in Junior Village and we looked at those kids. People put the plates down and before the kids could lift a fork who cannot lift one, the other one came along and took the plates away from them.

Fred Taylor and myself we phased Junior Village so that we could give each child a foster home. And so I think I can go way back and tell you something about foster care. And those kids were committed until they were 21 due to the fact of parents just saying here. I can remember one of my boys getting 18 years old and the parent come up out of the ground and said I've been looking for him for 9 years. I said, where have you been. She thought he was gone in the service. Right here on Constitution Avenue, in the 200 block, and I have been trying to find him. Where did you leave him. I left him at Junior Village. And you could not find him, and he has not even been out of town, been in my home all the time until he got 18, from a little boy. I had a lot of experience in this. And I want you all to know this. It is not always all blame on Human Resources.

Yes, we do not have any social workers downtown now. All of them are quitting because they have hundreds and hundreds of cases. I do not know why they do not hire any social workers. They all are leaving, so it is a mess. I've got to admit that I could go on and on and on. I am going to write a story one day. [Laughter.]

Acting Chairman DOWNEY. Thank you, Mrs. Grayson.

Mrs. GRAYSON. You are certainly welcome. I also want to thank the kids that came forward. But I do want to say one thing, remember that without a foster home, or some home. Some child is really going to be out on the street. We are going to have more street people that you want to face up to right now. If somebody does not open the door and take them in.

I know it is hard on you because, it was hard on me, I wondered why I was a foster child. I had doctors, lawyers and everybody in my family. But they did not take me. I had a problem.

Acting Chairman DOWNEY. Thank you, Mrs. Grayson.

Mrs. GRAYSON. And my problem was a bed wetter.

Acting Chairman DOWNEY. Do not go just yet, unless you have to go someplace, there may be other members of the committee who have questions for you.

Mrs. GRAYSON. Thank you.

Acting Chairman DOWNEY. If you can stay, we would appreciate it if you can. Mr. Andrews.

Mr. ANDREWS. Thank you. I want to thank all of you for your testimony today. It has been an important contribution to these hearings. Daryl, I am really very, very proud of you. I really appreciate you coming before the Congress and testifying today. You did not tell us that you are also a very good student. In spite of those schools, the many schools you have been transferred to, you have made good grades. Next fall you will start college, become a business major. You have got much to be proud of. You told me earlier today that you were lucky. And I guess that you are. In many ways you are lucky and there will be those, your friends, that will tell you that.

There is an old saying that goes, " * * * luck is what happens when preparation meets opportunity." And you really exemplify this. You have really done that with your life. And I want you to keep doing that. I want you to do well. We have got a special problem in Texas and across the South with people like you that are not lucky. They get lost in the system. They do not succeed in spite of the problems. In fact, the statistics are pretty grim for the South. One out of every five southerners is on some form of welfare today. We have been working on reforming our welfare system before this committee. If we do not make a major change in the next 5 to 10 years, welfare rolls in the South will probably rise by some 30 percent.

In earlier testimony, we heard this is an economic problem. That is really the truth in the South. Congressman Sawyer quoted Charles Dickens. You know who Charles Dickens is, of course. Charles Dickens also said this is the best of times, this is the worst of times. And that is really true in the South today. Many of our cities are just on the verge of new economic opportunity. But many people have been left behind. There are lots of Daryls in inner city Houston and across the South that are not getting help.

We are an interesting threesome up here. Congressman Miller from California, and Congressman Downey from New York. Our three States really bring different problems. You are from California, are you not? [Laughter.]

And they bring different parts of this issue. My State ranks 49th or 50th in terms of benefits levels. And New York and California are two of the highest. One thing I think we have heard from you all today, especially from you, Mrs. Grayson, is just simply that spending more money on the problem is not, really not, just the answer. There is no question we have got to spend money to break some of these cycles. But cutting through the kind of bureaucracies that you spoke to, Ms. Lowry: it's necessary in big benefits States like New York and in low benefit States like Texas. And I really hope as we go through these hearings and subsequent hearings on this issue, that we really concentrate on that question that was posed to you earlier. That is, let us talk about the bureaucracy and how we cut through the problems with the bureaucracy and not just relegate this to how much money we can spend on foster care. Thank you.

Chairman MILLER. Thank you. Congressman Pease.

Mr. PEASE. Mr. Chairman, I do not have any specific questions. I am sorry I had to leave for a few minutes, but I did enjoy all of the testimony. I am very impressed with Daryl and Boyd and particularly, Mrs. Grayson. I would like to welcome a friend, Ms. Lowry. Delighted to have her here testifying before the committee.

Ms. LOWRY. Thank you.

Chairman MILLER. Thank you. Congressman Levin.

Mr. LEVIN. Thank you. Well I found the testimony most illuminating. I have not been as close, Mr. Chairman, as you and Tom Downey and several others have been to this issue. But what you describe strikes me. We have a tragic tangle, if not a mess. I think it is important as we explore this that we not let the discussion revolve or evolve into polarization between foster care and family unit upbringing. I very much favor the thrust of the legislation. I would take it from the testimony this morning, there is good evidence that we need to implement the legislation. We also have to make sure that foster care, when it is necessary, is productive. And so I would hope that the testimony this morning of the four of you does not lead people to think we are in an either or situation. Because I just do not think so. The numbers are staggering. The ineffectiveness is equally as staggering.

Let me just ask one question of, maybe I will point it at Marcia Lowry. Why are we in this predicament? What is going on here?

Ms. LOWRY. That is a question I have often asked myself partly because of what we see happening and partly because of the difficulty we have in court in bringing about reforms that we can get on paper. Just as Congress got a good reform in Public Law 96-272 on paper, we get very good judgments in court and we have as much trouble enforcing them as there is in seeing Public Law 96-272 enforced. I think that the answers are several. No. 1, the consumers of foster care services do not complain and they have no organized advocates, for the most part, with the exception of private service providers. Sometimes private service providers' interests are consistent with the kids' and families. Sometimes they are not. But the families cannot complain. The parents, for the most part, are not in a position to complain. The children surely cannot complain. It is a largely invisible system. We have moved away for the most part from large institutions where you could go and visit the county orphanage. You could see that there were holes in the wall and all the children were getting was gruel and they were all wearing rags. We are not in that situation anymore.

For the most part the children are disbursed through foster homes, and sometimes group homes, and you cannot see it. So there is very, very little public pressure. That is abetted by the lack of information. The data are nonexistent. The data that the States produce are unreliable. So it is a very silent problem and the damage that is done to these kids for the most part is not going to be marked on their bodies. It is the kind of stuff that you hear from these young people today, but it is not visible. These are systems that for the most part are truly step children of State government. They are systems in which the funds are cut first when the State has a fiscal crisis. They cut foster care and child welfare services, because again nobody complains unless it is a private service provider. And because the issues involved in child welfare are genuinely difficult. When do you take a kid away from a family? When do you decide to try and free a child for adoption? These are genuinely difficult questions, even under the best of circumstances. We throw up our hands and say therefore, there cannot be management. Therefore, there cannot be accountability. We have to decide what is in the best interest of children and who knows what that means. So I think there is a tremendous resistance to trying to look at management issues and results and accountability. I think all of these things come together. The genuine difficulty of the problem, the absence of an organized lobby of complaint for the misuses of the system, and the fact that for the most part the real, real disasters of this system are very, very difficult to see.

Mr. LEVIN. Thank you. That was, I think, a most helpful, helpful answer. If I just, George, might I ask you this, I do not know the answer? I was not here in 1980. When the legislation was passed were there built in data requirements from the Government?

Chairman MILLER. In what sense?

Mr. LEVIN. What I mean, in other words, I read from some of the materials earlier and from some of the testimony that there were some reports due in. They were supposed to be reporting to us on a regular basis.

Chairman MILLER. The answer is yes. We required a series of reports that were reviews of the system because we obviously believed that we were providing a series of check points. This was a carrot and a stick approach. We were offering the States additional service moneys if they would revamp their systems to reflect the guidelines of the Federal law. Many States did that. They were to report to us the impact of the new law. We saw a substantial decline especially among younger children placed in foster care, between 1979 and 1983. Some States had almost eradicated the idea of putting an infant into foster care. They were able to find other settings for them. We saw those case loads plummet. Since 1983, of course, the thing seems to be going the other way. But there are periodic State reports that are to be made to HHS. There is the HHS audit process which was our way of using that information to determine what is going on, as I think has been pointed out this morning. That audit process has become a farce. I think that the answer is yes, there is a series of State reports to be delivered to us.

Mr. LEVIN. Thanks.

Acting Chairman DOWNEY. I never thought we would be in a position, George, to provide some historical context.

Chairman MILLER. I never thought we would be here this long.

Acting Chairman DOWNEY. Right. The 1986 Budget Reconciliation Act included an amendment which mandated that certain studies and reports are to be made to Congress related to the feasibility and elements of a system of collection of data with respect to foster care. Prior to that it had all been voluntary.

Mr. LEVIN. In 1986?

Acting Chairman DOWNEY. In 1986.

Mr. LEVIN. That is not due yet?

Acting Chairman DOWNEY. No, if I remember correctly, we had worked 2 years putting together the 1980 amendments. We did not get them done right away, and it was a tortuous process. And as you see here today, we laid out I think a fairly rigorous set of requirements.

Chairman MILLER. We had a system in the State of California; I think it was in Alameda County, or Santa Clara County, in which periodic reviews were taking less than 2½ minutes per child. And, as Boyd pointed out here, half of his life has been involved with this system. If he was 5, it would essentially be his whole life. And, for a 2- or 3-year-old-child, we are talking about a huge chunk of their lives that are engaged in the system. We changed the requirements to be that you have to match the decisions being made against the well-being of the child. You have to demonstrate that you have made all reasonable efforts to do so. That is not being done. You have to demonstrate that you have made an effort to reunify this family. Obviously, in Boyd's case, where the mother is trying to get the child back and the child is trying to go home, somehow that circle was not closed. And the test throughout this case is the "best interests" of the child. I think that what has been demonstrated here is that you may have a system that, for lack of a better phrase, is simply in contempt. This system has been sued and sued and orders have been issued and people have just continued on their merry way. And HHS has just continued to look the other way. You have a system that is not only somewhat out of control; it is also illegal at this point. But there has been no demonstration by this administration of any interest of getting it back on track. And of course now, what we see is that it is chewing up an increasing number of children in the process.

Acting Chairman DOWNEY. Mr. Weiss.

Mr. WEISS. Thank you very much Mr. Chairman. Obviously your efforts are to try to keep the system honest to the extent that you can. The people who work in these systems at the State level, obviously, are people who are well motivated to have gotten into the field to begin with. Why then, the kind of mismanagement that you spoke about, why does that persist? Why, I mean if you can see the mismanagement aspect of it, the duplication of effort, the division of effort, why do they not see it, and why do they not take steps to correct it?

Ms. LOWRY. Well, the steps have to come from the top down. When you look at middle management, middle management has a task and it has a job and perhaps it is comfortable in its job and it wants to continue doing its job. So middle management cannot say well, wait a second, my piece of this process does not fit with your piece of the process and the way to change that is that your piece of the process is going to get cut back and my piece is going to get bigger. Obviously, middle management cannot do that. The change has to come from the top. It has to be either the Governor or the State Secretary of Social Services, depending on how the system is run in a particular State, who says, wait a minute, we have got to step back and we have got to look at this and see what the real problems are. Where we can cut positions and where we can consolidate and where we have to expand. This just does not happen. I think it does not because changing bureaucracies is not easy under the best of circumstances and there is not the will to do it. I think the high levels of government are looking for the quick fixes. A child gets killed, a terribly, terribly brutal situation, and they want a quick answer.

These problems will not be solved by quick answers. And in order to deal with the kinds of problems we have been talking about this morning, you have to have reorganization. If you are a Governor, you cannot then issue a report in 6 months saying, no kid is now going to get killed or no kid is now going to be without an adoptive home. Or, no kid is going to be kept away from his family when he should be back with his family. You are not going to get quick answers to this. And I do not think that there is either the motivation or the pressure to change this. I am not in a position to lecture you people about how politics work. But, part of this is politics. And change takes place often only when it has to take place. There is nothing yet that says these changes, these fundamental changes that I believe are essential, have to take place. Nobody said it.

We say it in court and, occasionally, we get a Federal judge to say it. But nobody else has really said it. I think the task is difficult. It involves changing jobs, changing ways of looking at things, doing long range planning, taking an overview. It involves lots of hard work. It is not going to give you a headline in the Washington Post tomorrow or 6 months from now with a solution. It takes a lot of work and it takes a lot of commitment and it is not there.

Mr. WEISS. But I take New York as an example. A series of really well qualified, well motivated people come in at the heads of these agencies and middle level, and intend on doing a job. A year goes by and they seem to get caught up in the morass that they found and the situation does not change. Then somebody else new comes in and you get a sense that, okay, now something is going to happen. And we go through the same process all over again.

Ms. **Lowry**. Well, New York is truly a management disaster. I am happy to say that I have had an opportunity to look both at New York, which one is inclined to think is unique and I have looked at small States as well and they are terrible in different ways but they are equally terrible. New York has not ever made any real attempt to impose fundamental changes on its management and accountability system. I agree with you that there have been very many, very committed and well qualified people who have taken over the child welfare agency in New York and then have left, often under fire. And I think that the reason that they have not been able to do the job is because there has not been political support for the kinds of serious changes that are necessary, for the end of duplication that is necessary. New York in some ways is a harder problem because there is an awful lot of money going to private providers who are very interested in protecting their stake in the system. I think that does complicate things. Many of the private providers, of course, provide very good services. But they are not interested in any kind of a centralized management and they have a big commitment I think to saying the City cannot run things.

But I think the simple answer in New York is the same as it is in New Mexico. There is no attempt to both look at the fundamental problems and then come up with fundamental long term solutions. Notwithstanding the fact that you have competent people in these positions, the high level political people in New York have not made the decision to bring about the kind of changes that could bring some sort of coherence to New York's system. And New York's system is going to get worse. We are going to have more deaths and we are going to have more kids unnecessarily removed from their homes, like Boyd. At the same time we are keeping kids at home without services who are going to die and we are going to have very few kids who are going to have reasonable access to adoption when their family, unlike Boyd's family, is not a place that these kids should be returned. The kids that we are shoveling into the system now, without long range plans, are kids who are going to increase the length of stay in New York to the point where Boyd's story about half his life in care is going to become very, very common.

Mr. **Weiss**. I appreciate your response.

Chairman **Miller**. Thank you.

Mrs. **Johnson**. Thank you, Mr. Chairman. I am sorry I have been very much involved in both the preventive services aspect of our foster care programs in Connecticut, and the issues of terminating parental rights. And I was impressed, in meeting with my Hispanic forum recently, at the real outrage that a lot of my school teachers are feeling, with the parents of children who are poorly cared for—that whole range of poor care from abuse to the kind of neglect that leads to foster care placement. And I wonder if you see any States succeeding in doing a better job of preventive care that brings services to families so that children do not have to be removed from homes. And whether you see any progress on this issue of terminating parental rights? Because I do personally think, and it get's stronger and stronger messages from people out there who work in these areas, that the old way of just trying to be sort of custodial and managerial about these situations is no longer sufficient and that there is an increasing number of kids who need to be really given a new opportunity for a new family. And our own legal system, the prejudices within the people who run those systems, and many of the social work systems as well make this termination issue very difficult. And at least teachers and people who spend a lot of time with these children are finding themselves more and more at sword points with the very agencies that we rely on to protect the interest of children.

Now there seems to me there is a change going on. The people who are most involved are saying the interest of children are not being protected by the system that is established to protect those children's interests and part of the reason they are not is that they have no power over the parents and they have no system within which the child can actually be separated from nonsupportive family.

Ms. LOWRY. Well, that is a very, very important point. As I read the intent of the Federal legislation it was that children should be kept at home wherever possible with services. Then, if that did not work or if the early period in foster care was not successful, after a real effort to reunite the children with the family, it was the intent of the legislation to say: sorry, enough already, this child has got a right to another chance. And I think that the very, very beneficial idea that children's first chance should be with their natural family has been perverted to say that children should never be permanently separated from their natural family. Now that is not what I understood the intent of the legislation to be, and certainly that would not be a position that I would ever support.

So I think that in some ways the reasonable efforts requirement of the law is being used as an excuse to never make a final decision for a kid. If a parent has a warm body and is alive and once every 6 months says, gee, someday I hope I will get my kid back, that is a sufficient basis to stop the State from moving toward a termination of parental rights, when it is quite clear there is not a chance in the world this family can ever be reunited.

I think there are some model programs, some demonstration programs in some of the States that have really spent time and worked with families and who have done a good job. They are demonstration programs only. I do not think that there is a city or a State in this country in which there is a real effort to deal with this at the front and avert placement. There are a handful of families that have been helped, but nobody is putting in the resources to do the kind of intensive work that is necessary. Then, because the family has not been given a fair shot, time passes and the courts are reluctant to terminate parental rights because judges feel it is sort of unfair to do that when the parent has never been given a fair shot. The family may be hopeless, but taking as drastic a step as termination of parental rights is something that a lot of judges will not do and a lot of lawyers can successfully argue violates the parents' rights. But where is the kid left in all of this. Of course, the kid is no place. I think it is very important to keep in mind that there are two ends to this. Kids should come in, but then kids should get out. Give the parent a fair shot, but a fair shot. Not, ma'am, go home and work on your self image. Real effort should be made to give services so that the family can get back together, and if it does not work, we have to be prepared to say, after a reasonable period of time: sorry, this kid has got to have a chance of his or her own. That is not what is happening. The access to adoption problem is as bad as the preventive services problem. Kids are staying in seven, eight, nine years before the State is even looking at the question of terminating parental rights, and then they are saying, well nobody is going to adopt a 12-year-old who has behavior problems, so we might as well keep this kid in until he is 18.

Mrs. JOHNSON. I see that as a very serious problem and one of the things that we really ought to address if we are going to change the law is to look at the privilege and responsibilities of parenting and where those have been defined and not fulfilled to take a more aggressive attitude toward the child. After all, former natural parents, even after the rights are terminated, a relationship can be developed after 18. The child does not lose track. But I think, what I am hearing loud and clear out there is that the law is failing children because it is unable to deal with their parents. I am interested in your comments and I appreciate them. Thank you very much.

Acting Chairman DOWNEY. I do not know if I agree with that assessment. I heard that the law is failing the children. I heard the administration of the law is failing the children, because the law speaks to each and every one of those points. About the question of preventive services, about reunification, about 18-month reviews so that the decision has to be made as to whether a child is eligible for adoption or going to stay in the system, all of which are not being enforced. None of those provisions are being enforced. It is very interesting because we heard about these problems in all the preliminary meetings for this hearing. Also, Congressman Andrews just asked me what do we do to change the law. There are people who suggest that they are not so sure that the law needs to be changed. It is a question of whether it is being used to the benefit of the child. In this law the child is the center of the universe. That is how it was supposed to work. Then you make those different comparisons based upon the benefit of the child and the family. That is how it works and that apparently is not being done and we will hear from other people as to why it is not.

But it is not that it is not required in the law.

Mrs. JOHNSON. I would certainly agree, Mr. Chairman, that it would be perfectly, you could do that under the law, and the law does take that approach. But, because there are so many built-in barriers in our society to terminating parental rights, there may be ways in which we can better define things in the law and thereby support a process that would be more aggressive in support of children's interest.

Mrs. WILLIAMS. We agree with you absolutely that that is the law, and that administration has been poor.

Chairman MILLER. Well, thank you very much for your testimony, Daryl and Boyd. Thank you very much, Mrs. Williams. We really appreciate your taking your time to testify at our first hearing, and I hope that your testimony will continue to spur on the members of the committee to look at and rectify some of the problems that you have pointed out.

You've helped to give this system a human dimension so that we don't just get bogged down in the bureaucracy of it, and fail to understand that it's victimizing a substantial number of young people and their families around the country.

I really appreciate you taking time to be with us.

Mr. Morris. I have one thing to say.

Chairman Miller. Sure.

Mr. Morris. I know that this hearing is based upon your trying to make decisions on how to improve systems around the country, and I want everybody that's on the committee to consider that we, as youth in foster care, we're not numbers, we're people, and our lives hang in the balance of your decision.

We need your support, because not only does it start with us and our agencies, it's starts with you guys, because you really make the decisions and pass the law.

We need you behind us to make this a better system.

Chairman Miller. Thank you.

Mr. Morris. And just want everybody to think about that, and that we're not numbers, as I said—we're lives, and take that into consideration and maybe something can be worked out. Like, we're not animals, we're real people, and we have failings, and we need love, a place of being and belonging just like everyone else.

Chairman Miller. Well, Daryl, I think you've made that more than clear to the members of this committee. Thank you very much.

Mr. Morris. OK.

Mrs. Williams. Thank you.

Chairman Miller. Next the committee will hear from a panel made up of Dennis Lepak, who is a Deputy Probation Officer of Contra Costa County, Calif.; and Suella Gallop, who is from the American Federation of State, County and Municipal Employees from New York; and Janet Fink from the New York Legal Aid Society.

If you will come forward we will take your testimony in the order in which I called your names, and your written statements will be included in the record of the committee in their entirety. The extent to which you want to summarize your testimony would be appreciated. Also, the extent to which you may want to respond to something that was said by the previous panel would also be helpful to us.

Dennis, welcome to the committee. We'll start with you.

STATEMENT OF DENNIS LEPAK, DEPUTY PROBATION OFFICER, CONTRA COSTA COUNTY, CALIF., PROBATION DEPARTMENT, AND VICE PRESIDENT, CALIFORNIA ORGANIZATION OF MENTAL HEALTH ADVISORY BOARDS

Mr. Lepak. Thank you very much, Chairman Miller.

I'm a probation officer for Contra Costa County, CA, and vice president of the State of California Organization of Mental Health Advisory Boards.

In California, probation departments are responsible for the placement of thousands of children, in both conventional foster homes and larger group homes. Probation departments are often forced to assume responsibility for children who are railroaded into the criminal justice system on menial and trumped up charges.

Police, parents and other agencies conspire to have children arrested. Pushing aside a mother becomes an assault, coming in a window of a child's own bedroom becomes breaking and entering, and a ride in the family car is charged as auto theft.

They do this to obtain help for the child and the family.

Two and a half years ago when I was assigned to the juvenile placement unit, I thought I knew what to expect. But I was unprepared for what Congressman Miller calls the shadowy world of foster care.

My first exposure to abuses in the system was in December of 1985, when I spent 2 days and a night at the Rite of Passage Wilderness Camp, a group home for California boys, located on an Indian reservation in the high desert of central Nevada.

Boys were intentionally denied clothing adequate for the harsh conditions, routinely assaulted by staff, and deprived of meals.

Despite my report to every local, State—both California and Nevada—and Federal agency, there are now 60 more boys at the camp than when I was there 2 years ago.

Rite of Passage is only a dramatic example of many programs designed to isolate and contain foster children. These programs do little to meet the needs of children and families.

Most placement children come from very dysfunctional families. Parents suffer serious, yet untreated, mental problems, usually combined with alcoholism and drug addiction. The children are physically, and more often than seems possible, sexually abused. They, in turn, have serious emotional and drug problems.

We know how to intervene effectively in these families. But since we lack the necessary outpatient treatment programs, we pull the children from the homes and put them in the available placements, most of which are not at all prepared to deal with the specific problems of the family and the child.

I could spend the entire day telling you story after story of terrible things that have happened to children in this system. There is no shortage of horror stories.

God help the children without families to protect them.

Let me tell you about the system.

Most tragically, children are placed with little or no services to prevent their removal from families. Children are often removed from homes that no representative of the removing agency has even visited.

Decisions to remove children are based on information from old reports, office interviews, and phone calls. Caseload sizes dictate this approach. Many California placement workers carry caseloads of many more than 60 children.

Children are put in inappropriate placements, not designed to offer family counseling, psychiatric treatment, or drug treatment. Children are not prepared to return to families, nor are they provided with a specialized educational and vocational training they need to survive after they become 18.

They become the new homeless.

Children are usually placed at great distances, or even in other States. Incredibly, this appears to be the unwritten policy of many placement agencies. Children placed far from home are easier to manage.

Most children, we feel, should be placed in their home school districts.

Children are placed for inappropriately long and arbitrarily determined periods of time. The great majority of group home placements in California refuse to accept referrals unless they are assured that children will be placed for at least 1 year.

This seems to be an industry standard.

Little or no work is done to return children to their families. Most programs consider home visits to be a privilege, and visits are used as rewards for good behavior rather than as reunification tools.

I have seen Christmas home visits for young children cancelled for violation of relatively minor internal program rules. There is no incentive for foster homes and group homes to return children to families. Rapid turnover results in loss of needed funds. All the incentives for placement operators work against family reunification.

Although I am sure it is not apparent from my testimony so far, I actually believe that most foster parents and group home operators are some sort of saints. I think they mistakenly put too little value on the importance of a family to a child, however.

When child care workers become involved with a family, it's because that family is in severe and acute crisis, and needs immediate help from a variety of human service agencies, such as marriage and family counselors, child psychiatrists, alcohol and drug abuse clinics, rape counselors and sex abuse experts, family stress centers, and parent effectiveness trainers.

These services are not only not immediately available, they have waiting lists so long that they effectively do not exist. In our county we have well over 100 children waiting for outpatient mental health services. We know our responsibilities under Public Law 96-272, but we have no resources.

We cannot deliver the child the required services, or the family, so we deliver the child alone to the group homes.

In my home county we are reexamining placement practices. We are looking at why we place so many children so far away. We are finding out we can work effectively with children placed near home, and can return them to their families much sooner.

We have also been studying various family preservation models. The intensive, short-term, home-based programs designed to change situations so children may safely remain with families.

In the area of family preservation, we had a distinct advantage. We were introduced to the concept by our Congressman, George Miller. He not only was aware of the problems we faced, he understood them better than we did.

With the help of both his district aide, Carol Hatch, and Ann Rosewater of the Select Committee, we formed a family preservation task force. But while we can get all the State and Federal funds we need for family splitting, we are unable to find any funds for family preservation.

When I leave Washington today, I will be going to a meeting of the California Mental Health Advocates for Children and Youth, more than 300 advocates who unanimously endorse services that keep children safely in homes, and community based placements for those who must be removed.

Anyone who spends some time with this group comes away convinced that radical reform of the foster care system is inevitable. It simply makes too much sense, in both fiscal and human terms, to not happen.

The question is, how much longer must the children caught in the present system suffer?

Thank you for listening.

Chairman MILLER. Thank you very much.

[The statement of Dennis Lepak follows:]

Statement of Dennis Lepak, Vice President, California Organization of Mental Health Advisory Boards

FOSTER CARE AND PROBATION

My name is Dennis Lepak. I am Vice President of the State of California Organization of Mental Health Advisory Boards and a Probation Officer for Contra Costa County.

Often people from other States are surprised that in California probation departments are responsible for the placement of thousands of foster children. Many of these boys and girls are placed in conventional foster homes, but since they are usually older and suffer from more emotional disturbance and substance abuse problems than most Welfare department children they more often are placed in foster care funded "group homes". They are not children less deserving of the support of Foster Care funds. They are in desperate need of protection and enormous amounts of help, before their childhoods are gone and they are lost forever.

I could tell you stories for the entire day of children unbelievably victimized by those responsible for their protection: both the parents they are taken from and then the child care workers they are given to. Stories of these raped and molested children are so incredibly commonplace in the world of foster care that they have become routine. Instead I will tell you of a few placements, some I like and some I don't. I'll tell you about a couple of kids, but I will spare you the common but gruesome stories.

In November 1985 when I first became a Juvenile Placement Worker in the Contra Costa County Probation Department, I thought I knew what to expect. After all, I wasn't exactly new to the world of institutions and human service agencies. For the previous ten years I had been an Adult Probation Officer supervising specialized caseloads of alcoholic, drug addicted and mentally ill clients. Five years were spent supervising adult probationers in residential facilities. For two and a half years, prior to becoming a Probation Officer, I had been a counselor at the County Boy's Ranch and Juvenile Hall. My experience has included two years as a Lieutenant in the U.S. Army Military Police where I served as Assistant Confinement Officer of the largest military stockade in Europe. I was an experienced instructor of winter survival and snow camping. I had even been hardened by the ultimate challenge of raising two boys, with the help of my wife of course, who were at that time 17 and 15. Nothing, however, had properly prepared me for the first foster care placement I visited.

RITE OF PASSAGE

In December 1985 I spent two days at The Rite of Passage Wilderness Camp, a group home for boys which is located twenty miles from the nearest paved road on an Indian reservation in the high desert of central Nevada. As a result of what I was told and observed on that visit, I returned to California and filed a report with my County's protective services agency alleging the abuse and neglect of the forty adolescent boys who were placed at the camp. To my knowledge all the boys at the camp when I was there were California residents, placed by probation departments, welfare departments and parents. Among the allegations listed in my report were:

- In spite of bitter cold conditions, heavy jackets the boys were issued had been confiscated two weeks before my visit and were secured under lock and key at the camp. Every boy wore every piece of clothing available. I wore clothing I use in the Sierras in the winter and I was freezing.

- Boys were routinely subjected to a practice called "slamming". Slamming was the term used for the forceful wrestling takedown technique used by staff. Most staff had been high school wrestlers or football players. They were addressed as "coach".

- Two boys had been chained at night. One with a chain around his waist secured to a fence the other with leg shackles attached to a truck.

- Boys on non-compliant status were required to sleep away from the camp and all were deprived of food if any of the group refused to participate in daily, forced marches. On one occasion a boy claimed he was deprived of food for three full days.

- Eleven boys, as a punishment for "horseplay" were required to strip to their shorts and form a human wind screen for staff, on a cold and windy summer night. They stood for up to four hours.

All of the boys I spoke to seemed anxious to leave the camp. Many had tried to escape, some by running through the U.S. Navy bombing range six miles to the north. Most were returned by men from the local tribe who were paid a standing bounty for returning boys to the camp.

I was sure that as soon as I informed the appropriate authorities of my findings the camp would be closed and the boys returned to more appropriate facilities inside of California. I was completely wrong. It is now more than two years since my complaints were filed. There have been numerous news stories, additional allegations and investigations by some powerful state and federal agencies. To this date, I have never been told, by anyone, that any of my allegations were untrue or even exaggerated. Despite all this, I am told that 100 California boys, more than double the number two years ago, now reside at Rites of Passage. I understand there have been reforms and that boys now sleep in beds in prefab buildings instead of on the ground in tents. Despite reforms no one will ever convince me that it is an appropriate placement for adolescent California boys. I believe that Rite of Passage is a cleverly disguised warehouse for throwaway kids. Kids considered by some to be totalled like cars, human beings beyond our ability to repair.

My experience in the Nevada Desert profoundly changed the way I view agencies that have the responsibility for the care of children. A child without an effective family to protect his or her interests is at great peril, their safety and well being depend on luck and whimsy. No one will value and protect another's child as they will their own and communities will not serve children from other areas as they would their own. The system in most cases is simply not capable of doing what is best for the child and often is directly responsible for furthering the abuse, neglect and suffering of the child.

Rite of Passage is only a dramatic example of facilities designed to contain difficult placement cases. The system supports many similar programs in it's quest for orderliness and efficiency. These behavior modification programs do little to address the real needs of children removed from their families.

THE SAD CHILDREN

First and foremost these children, regardless of outward appearances and demeanor, are starved for love and affection. They suffer deep-felt feelings of hopelessness and abandonment.

Repeated injuries and rejections, at the hands of adults, have caused them to throw up thick barriers of tough attitudes and postures. These are fake. They need therapy specific to issues of molest, abuse, and neglect. They need to learn that there are adults they can trust who will not reject them even when they are extremely difficult. Unfortunately, what the system does, is focus on the most efficient and easiest ways of getting young wards from their childhoods to their eighteenth birthdays. At that point Children's agencies can vacate the cases. Placement kids are then turned loose in an adult world where they can sink or swim. Unfortunately, most are not prepared emotionally, vocationally, or financially to deal with that world. They are forced to rely on public assistance and untreated drug and alcohol problems become acute. Many eventually end up in adult institutions and jails, again dependent on the system for support.

JOHN

John was fourteen when he was placed at Rites of passage. He had been at the camp for eighteen months when I visited. His arm had been broken when he was "slammed" by a coach and was it permanently deformed. The worker who placed him there was a woman I have known for years. She was a caring and dedicated worker doing an extremely difficult job. She had not been to the camp before delivering John and relied on the representations of staff at an affiliated group home in California. Placement workers decide to use new facilities because other agencies have already made placements at them. There is little time for independent inspections when overworked Social Workers and Probation Officers rush to remove kids from overcrowded shelters and juvenile halls into what are hopefully safer surroundings.

John's record was typical of many youngsters placed by Probation Departments in California. He had a single sustained charge of petty theft for shoplifting some cigarettes, a charge that wouldn't get your son, or mine, or even a kid with the most marginal of parents, a day in court. It bought poor John a year and a half in the desert at Rite of Passage.

John and one other boy my County had placed at Rite of Passage were moved from Rite of Passage promptly after my visit and our Chief Probation Officer ordered that no more children would be placed out of State. John had a difficult time adjusting to the world after he was removed from the Camp. He had difficulty trusting anyone, something easy to understand when you know that John; the unwanted child of an unwanted child, herself a product of the foster care system; had a history of two failed adoptions. He was a severely neglected baby of an addict mother who never bonded with anyone and was disturbed enough to be beyond the abilities of either set of adoptive parents to handle.....defective merchandise returned for a refund. Rite of Passage was not the sort of program likely to return John to society.

John is now committed to the California Youth Authority, the State reform school system. While in the placement system had become a "cutter", the term child care workers use for a child who compulsively cut on themselves, "cutters" are fairly common but difficult to place. Although everyone involved in the case thought John to be primarily a victim in need of psychiatric hospitalization, there is almost no such treatment available, for poor, foster children in California. John now had enough sentence time to commit him to a State detention. The Judge after repeated continuances, when he sent the workers out, one more time, to find the appropriate placement, reluctantly sent John away.

One positive result of John's last offense was that he was reunited with his father, grandfather, brothers and sisters, people he did not know existed, who had assumed, for thirteen years that John was living happily ever after with his first adoptive family. I was told that original families have no rights after relinquishing a child for adoption. Not even the right to be told that the adoption has failed and that their son or daughter had become a ward of the government...it's policy.

HE'S NOT HEAVY... HE'S MY BROTHER

Eddie was eleven when he was booked at Juvenile Hall for assault. He and his little brother had been removed from their mothers home a few days earlier. She was, by all accounts, seriously alcoholic and neglectful. After unsuccessfully attempting to regain custody of her sons, she left California and went to the home of her mother in Oregon. Eddie told the court he was trying to protect his nine year old brother who he said was being assaulted by staff. He admitted to kicking the counselor in the shins.

Eddie and his brother were now put in separate placements. Eddie was frantic about wanting to be with his younger brother. The nine year old was a Welfare Department dependent child and he went to a highly structured group home with a policy of not accepting delinquent children. Eddie was now a Probation Department delinquent child but he was placed in a conventional foster home, even though his Probation Officer wanted to place the brothers together. And, despite the fact that it is quick and easy to put children in out of state placements, it is all but impossible to quickly return children to their mother in another state.

It took more than six months to reunite Eddie and his brother. They were finally reunited at their mothers home in Oregon. An experience like this affects a child of eleven or nine for the rest of his life. How sad that agencies cannot cooperate to minimize the damage. Cooperation in this case would have allowed Eddie and his brother to remain together during a combined effort to return them to their mother.

It is difficult to imagine what it is like to be separated from your parents and moved to a strange place where there is no one you know. Obviously it is terrifying. I've seen kids in that situation get real tough, real quick.

CRIMINALIZING CHILDREN

Stories like John's and Eddie's are not uncommon in the world of foster care. Complex regulations, inadequate funding, lack of inter-agency cooperation, overburdened workers, and non-existent prevention programs turn almost every placement, into a confidential, quiet tale of bad child care. I am not saying that these are not difficult cases. Most placement children come from very dysfunctional families. Parents suffer serious, yet untreated mental problems usually combined with alcoholism and drug addiction. The children are physically and more often than seems possible, sexually abused. They in turn suffer serious emotional disturbance and chemical dependency problems of their own. We know how to intervene effectively in these families, but since we lack the mental health and chemical dependance outpatient and residential treatment programs, we pull the children from the homes and put them in the available foster homes and group homes, most of which are not at all prepared to deal with the specific problems of the family and child.

Because of the great frustration of parents, and foster care agencies, to deal with adolescent problems and obtain any community mental health or substance abuse services, they turn to the police and juvenile courts as a last resort. Children are railroaded into the criminal justice placement systems, on menial and trumped up charges. Police and parents, conspire to have children arrested. Pushing aside a mother to get out a blocked door becomes an assault, coming in a window of a child's own bedroom becomes breaking and entering, and a ride in the family car is charged as auto theft.

THE "SYSTEM"

In California, and I assume in most states, foster kids, at least the older ones who are placed in group homes are generally placed:

- **With little or no services delivered to prevent the removal of the child from the home.**

Children are often removed from homes that no representative of the removing agency has visited. Decisions to remove children are based on information from old reports, office interviews, and phone calls. Caseload sizes dictate this approach. Many California placement workers carry caseloads of more than sixty children.

- **In inappropriate placements not designed to offer family counseling, psychiatric treatment, or chemical dependency services.**

Children are not prepared to return to families, nor are they provided with the specialized, and accelerated educational and vocational training they need to survive after they become eighteen.

- **Great distances from the child's home community or even in another State.**

Incredibly, this appears to be unwritten policy of many placement agencies. Children placed far from home are easier to manage. When friends, family and familiar surroundings are removed the job of controlling the child becomes much easier. Children are placed in rural communities where foster care has replaced more traditional industries. Often children find employment opportunities in these communities extremely limited. With no alternatives they return home. Since they are now adults what becomes of them is usually, and mercifully, not known by those who were responsible for them as children.

- **For inappropriately long and arbitrarily determined periods of time.**

The great majority of group home placements in California refuse to accept placements unless they are assured that children will be placed for at least one year. This is an industry standard. The practice is normally justified in one of two ways. The programs simply state that they have found that the problems of the children they serve are so severe that a year is the minimum period of time they need to do effective work with the child. The other justification is that the program is designed so that the child is rewarded for good behavior and for "working the program" by advancement through program steps or "phases" these are known as "phase programs" and are usually designed to keep the child in residence for at least a year. This program design allows the program to very effectively manage both group and individual behavior and resident turnover. Phase programs are used routinely for both probation and welfare department placements.

- **With little or no effective casework done to successfully reunify the child with the family.**

Most programs consider home visits to be a privilege and visits are rewards for good behavior rather than something used as a reunification tool. I have seen Christmas home visits for young children cancelled for violation of relatively minor internal program rules. There is no incentive for foster homes and group homes to return children to families. Rapid turnover results in a loss of funds from unoccupied beds, and the difficulties encountered in breaking in new kids. All the incentives for placement operators work against family reunification.

WHY?

Let me tell you why these things happen. In California, and I am told, in most states, the placement worker sees a bottomless pit of placement money available for the asking. Social Workers and Probation Officers working with children in homes cannot, personally, supply the specialized treatment services the child and the family desperately need. The families served by these workers are much more dysfunctional and disturbed than they were only a few years ago. When these workers become involved with families it is because that family is in a crisis situation that brought it to the attention of the agency. These families and children need immediate attention from:

Marriage and Family Counselors
Child Psychiatrists
Alcohol and Drug Abuse Clinics
Rape Counselors and Sex Abuse Experts
Family Stress Centers
Parent Effectiveness Trainers
Vocational Rehabilitation Services

These services are not only, not immediately available, they have waiting lists so long, that they effectively do not exist for these children and families in crisis. In our County we have well over a hundred children waiting for outpatient mental health services. Waiting periods are measured in months for children and parents voluntarily seeking substance abuse treatment. Almost everyone not in need of immediate physical restraint is turned away or placed on a very long waiting list. I do not exaggerate. If you are unable to buy alcoholism, drug abuse, or mental health services for yourself or your children you are simply out ofluck in California.

Child care workers, the most dedicated hard working group, of government employees I know of, frustrated by the inability to deliver services turn to placement. Although they may have a strong preference to keep a child in the home they find it impossible because of a lack of government funding. Since they cannot deliver the treatment to the child they deliver the child to the treatment. And, often that treatment is inappropriate, ineffective or involves more time waiting in short term shelters and juvenile halls. All the incentives push the worker to remove the child. Foster care funding streams, the most expensive of the available options, are the most easily accessible and least expensive for the counties. Reasons are rationalized, and families are broken.

REASON TO BELIEVE

Recent events in my home county illustrate what can be done to change this situation. We recently began a comprehensive reexamination of some of the basics of how we deal with what we call "out of home children". It was proposed that a private organization construct a new children's facility on county property. The new facility would house 125 adolescents. The Los Angeles based group, proposing to build and operate the new facility, was presently operating a fifty bed group home on the same site in a building leased from our County.

Many of our County's children's advocacy groups began to protest. At first, the protest focused on the size of the proposed facility. What perplexed many was that the county would entertain the idea of putting another large facility on the same site as an established fifty bed group home that had never, since being opened eighteen months earlier, had even as many as ten kids from our county placed in it. This program wanted commitments from placement workers that children placed would remain in the program until they completed a 12-18 month behavior modification program. They refused the efforts to place children that were appropriate for community placement aimed at reunification in a period less than a year. These advocates feared that this facility would be used by other counties to place children far from their homes in a facility that was not to serve any special population or difficult to place youngsters.

The conflict between those who believed the new facility would benefit children of our county and those who doubted it would even be used by County children, developed into a healthy reexamination of who we placed, why we placed, where were placed and for how long. This group, made up of department heads from Social Services, Probation, Mental Health, Education, and County Administration meeting with social workers, probation officers, foster parents, group home operators and citizen advocates from virtually all the childrens groups in the county, began by asking why we placed so many of our children in other counties while beds in similar facilities in our county were often occupied with children from those same other counties.

These questions and the increased communication between agencies, and the placement system soon had positive effects. More placements began to be made at programs within our county. This resulted in the discovery that we can work effectively with children placed within the community. Children placed in local Foster Homes and Group Homes are very aware that the number of placements within our County is very limited and that if they fail in a local placement they will probably be placed far from home. We have been especially pleased with the results we have had with the local placement of girls who are chronic runaways. They may not be able to be at home but they want to be near both families and friends.

DRAKE HOUSE

Working with community based programs allows the placement worker to have increased communication and cooperation with the placement staff or foster parents. Drake House, is a particularly effective girl's program in our County. They begin communicating with a child's family during the second or third week of placement and allow weekend home visits shortly thereafter. They ask for no time commitments from children or staff and often recommend returning a girl to her home within six months or less. They believe that even the best group home is a very poor substitute for a child's family. Drake House knows that most girls placed with them will have been sexually abused and will also have substance abuse issues. Unlike many group homes they confront these problems head on. Our experience with Drake house, where there was not one Contra Costa County girl of the twenty residents two years ago, has prompted us to encourage the establishment of a similar program, for twelve girls, in a different part of our county.

THUNDER ROAD

Thunder Road, an Oakland based program, just over our county line, is another group home that has broken the bounds of traditional approaches. Thunder Road treats Chemically Dependent children and their families. They will not take a child into the program unless the at least one member of the family is willing to commit to participation in weekly meetings for the six to nine month residential phase and a three to six month aftercare program. Even parents who have been extremely rejecting of their children, are willing to consider participating in the Thunder Road program. After the residential phase of the program, children are reunited with families and continue participation in the weekly aftercare sessions, at no cost to anyone, until they and their families have completed the one year program.

Children, who are be removed from homes, are addicted to drugs and alcohol to a much greater degree than the average child, and it is very unlikely that they will receive any substance abuse treatment while in placement. Estimates are that eighty percent of these families suffer severe substance abuse problems. This is a problem proven to be passed on from generation to generation. A program like Thunder Road cannot exist far from the homes of the community of the children it serves. It must be close to the families to work. In the community it can become the center of a large new group of "clean and sober" children and families. While these kids can "just say no" they cannot do it alone.

FAMILY PRESERVATION

Eventually our County's study of "out of home" issues forced us to look at why children were removed from homes at all. As a group, and with the assistance of our Congressman, George Miller, we studied a few of the "family preservation" programs presently operating in the Country. Family preservation programs are intensive, short term, home based programs designed to change home situations so that children may safely remain in homes with their own families. Caseloads number two or three families per worker. Cases are often limited to ninety days of service. We became convinced that an effective family preservation program, is the first and most important ingredient in any reasonable continuum of services for children at risk of placement. These programs are proven money savers with the attractive benefit of also saving children and families.

Our County Probation Department is so committed to avoiding placement, if possible, that it operates a "placement diversion" program that employs a full time probation officer and an aide. The program receives no funding support from the State or federal government. Most California probation departments do not have such programs so the thirty children we divert would be placed at State and federal expense in most counties.

We want desperately to prevent the placement of children whenever reasonable and possible. Right now we have an interagency "Family Preservation Task Force" formed and working. But, while we can tap all the State and federal funds we need to take children from homes, we have, so far, been unable to find any funding sources for home based programs.

One more positive note. When I leave Washington today, I will be going to a three day meeting and conference of the California Mental Health Advocates for Children and Youth. Each local Mental Health Advisory Board, in California is now required to designate a member as a Children's Advocate. Two hundred and twenty three of these and other children's advocates will meet to coordinate efforts to lobby for more and better mental health services for children in our State. They are intensely interested in the issues I have discussed with you today. I wish all of you could go there. You would find that there is virtually unanimous endorsement of services that make it possible to safely keep children in homes, and of community based placements for those who must be removed. Anyone who spent time with a group such as this would come away convinced that a radical reform of the foster care system is inevitable. It simply makes too much sense in both fiscal and human terms to not happen. The question is how much longer the children caught in the present system must suffer.

On behalf of these children: **THANK YOU.**

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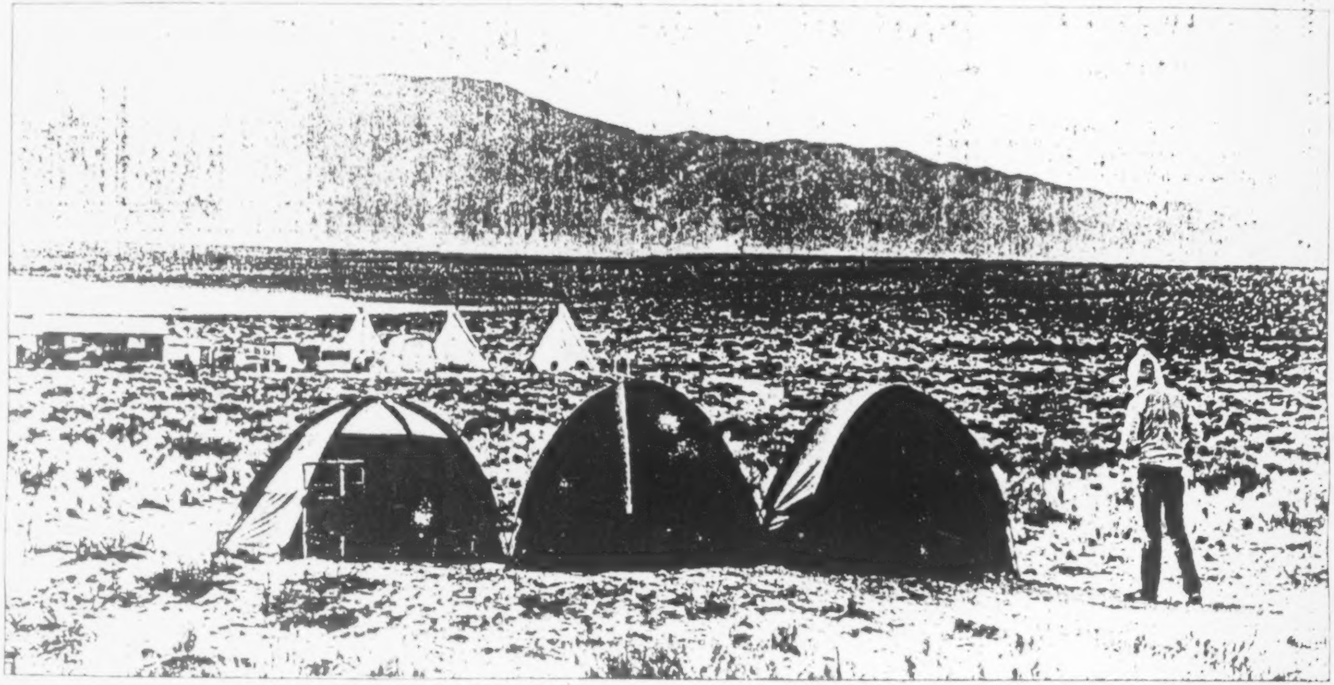

BORIS YARO / Los Angeles Times

Detention tents at the Rite of Passage camp, visible in the background, in the Nevada desert; for boys being punished in these tents, there are no toilet facilities.

Delinquents Face Tough Rite of Passage

And Rite of Passage, a Camp for Troubled Youths, Faces Charges of Abuse

By JOHN HURST, *Times Staff Writer*

SCHURZ, Nev.—Law enforcement authorities here are investigating allegations of abuse and neglect at a primitive desert camp where delinquent teen-age boys—mainly from California—are housed in tepees on a remote Indian reservation.

The California Department of Social Services is paying the camp operator, a privately run, nonprofit organization called Rite of Passage, nearly $36,000 a year in state and federal funds for each youngster sent by county officials to the camp, which is 17 miles east of the tiny town of Schurz.

Rite of Passage receives a total of more than $1 million a year from California and the federal government to operate the camp, which is licensed by the Walker River Paiute Indian Tribe, owner of the camp site.

Most of the youths at the camp are hard-to-place, troubled delinquents who are wards of the juvenile courts. California counties place youths in the Rite of Passage program as an alternative to private group homes, county-run programs or the California Youth Authority. At any given time, about 40 boys between 13 and 17 years of age are housed in the camp.

The Mineral County Sheriff's Department and the Nevada State Division of Investigation, which are conducting a joint probe into the abuse and neglect accusations, also are looking into allegations that some of the youths were sexually abused by other teen-agers at the facility.

Last week, U.S. Reps. George Miller (D-Calif.), and Harry Reid (D-Nev.) asked federal and California officials to investigate the camp, which they described as "an inappropriate program."

Counties Pulling Youths Out

Three California counties—Contra Costa, Marin and Humboldt—have pulled teen-agers out of the camp because of the allegations. San Diego, San Bernardino, Alameda, Santa Clara and Placer counties have suspended placements pending completion of the investigations, but have allowed youths previously placed in the camp to remain. There were 31 youths still housed at the camp last month.

Rite of Passage officials said they are confident that the program will be exonerated by the investigation.

Nevada law enforcement authorities refused to discuss details of the Rite of Passage probe, but examination of documents, a visit to the camp and interviews with youngsters, camp operators and government officials disclosed that:

- Last summer a youngster was repeatedly chained into his sleeping bag at night by camp staff members to keep him from running away. Another youth was kept in leg shackles in an unsuccessful attempt to prevent his escape. Rite of Passage officials maintain that these two were the only youngsters ever to be shackled in the two-year history of the program and say that the practice has been halted.
- Youths have complained to at least one probation officer of suffering from severely cold weather at the camp, where youngsters bed down in sleeping bags on the fabric floors of the tepees. Winter temperatures in the area drop to zero. Kerosene space heaters are sometimes used in the big tepees, which house a dozen youngsters each. Some youths at the camp sleep in one- to three-man tents rather than tepees. A probation officer from Contra Costa County, Calif., reported that on a visit to the camp this winter it was so cold in the rudimentary dining hall that youngsters wore gloves to eat and when milk was spilled on the table it immediately froze.
- In the middle of winter, several ill youngsters were kept in a tent where they slept in sleeping bags on mattresses on the fabric floor. A kerosene space heater was placed in the tent at night.
- Youths alleged that Rite of Passage staff members frequently slammed them to the ground as punishment for defiant, obscene language. One youngster suffered a badly broken arm last April when he was thrown down during a scuffle with a staff member who had slapped him, according to Rite of Passage internal incident reports. The staff member was fired and two other staff members accused of physically abusing youths currently are under suspension with pay. But Rite of Passage officials maintain that any cases of abuse were isolated instances.
- Youngsters at the camp were frequently disciplined by being placed in "non-compliance" groups that were forced to march 16 to 18 miles a day for days at a time and denied milk and showers. Youngsters who misbehaved on the hikes were sometimes denied access to fire to heat their canned food at night.
- Rite of Passage staff members lock up all the youngsters' shoes every night to keep the boys from running away, but youths still have escaped into the desert in their stocking feet, and one youth told his probation officer that he wandered through a Navy bombing range several miles away.
- This winter, the camp was sometimes short of water because of a faulty well pump.

"This facility is out in the middle of nowhere and is run like a Marine Corps boot camp," according to a Dec. 19, 1985, letter from the Nevada Department of Human Resources to the California Department of Social Services.

Rite of Passage also has won praise, including letters to the organization from Santa Clara and San Bernardino county probation officers.

A Santa Clara County probation officer who inspected the camp in early January wrote that it was "meeting the youngsters' needs" and pledged a "continued association" between the probation department and Rite of Passage.

A San Bernardino County officer who visited the camp in late December praised the program after observing that the youngsters indeed were not provided jackets during a cold period when there was no insulation in the dining hall.

"I believe, for a few days while the jackets were not available and while the dining room was not insulated, it was unpleasantly cold," wrote Probation Officer Larry Marona.

"It's still cold," he continued, "but I do not feel in any sense that our wards are either neglected or abused. On the contrary, I believe they are being given a very healthy, positive opportunity for growth and redirection."

Rite of Passage touts itself as a sports-oriented program designed to instill discipline, self-worth and accomplishment in troubled and troublesome youngsters.

"We are serious about all the sports we do out here," said Jon Willette, a big, friendly former policeman who runs the camp.

Designed to Be Tough

Yet the athletic program at the desert camp is primitive at best. Youngsters attempt to play tennis on a dry and cracked lake bed, using strands of rope to mark the court boundaries and wire fencing for a net. The dry lake bed also serves as a football field. The camp's basketball court is simply the desert sand and a single backboard.

"It's designed to be primitive," insisted Rite of Passage Board President Frank E. Dougherty, a psychologist in Placerville, Calif. "It's designed to be a tough program. It's designed to make kids have to achieve things they didn't think they could achieve."

Dougherty told The Times that the organization operates in Nevada because there is no provision to license such a camp under California Department of Social Services regulations for child-care facilities.

Besides providing a license for the camp to operate, the Walker River Paiute Indian Tribe leases the five-acre campsite to Rite of Passage for about $3,000 a month. Under complex federal law, Indian tribes in some states—not including California—are authorized to license facilities such as foster homes and group homes on reservations.

In California, youngsters placed in settings outside their own homes generally have been declared delinquent or dependent court wards and juvenile judges have authorised probation or social welfare departments to find suitable homes or institutions for the youngsters.

For the most part, these youngsters are placed in California facilities licensed by the state Department of Social Services. When youngsters are placed out of state, it is the responsibility of the placing county agency to see that the facilities meet proper standards to ensure the safety and welfare of the juveniles.

While probation departments in some counties, such as San Diego, frequently place youngsters out of state, others, such as Los Angeles and Orange counties, have policies against such placements because of the difficulty in supervising such cases and because out-of-state placements separate youngsters from their families.

Meanwhile, Rite of Passage officials say

Please see CAMP, Page 13

Chairman MILLER. Suella.

STATEMENT OF SUELLA GALLOP, SUPERVISOR IN SPECIAL SERVICES FOR CHILDREN, HUMAN RESOURCES ADMINISTRATION, NEW YORK CITY, AND MEMBER, AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, LOCAL 371, SOCIAL SERVICES EMPLOYEES, DISTRICT COUNCIL 37, NEW YORK CITY

Ms. GALLOP. Mr. Chairman, I have summarized my full statement, which I would like placed in the record.

Chairman MILLER. Without objection.

Ms. GALLOP. Good afternoon, Mr. Chairman and members of the committee.

My name is Suella Gallop. I am a second level supervisor in the Special Services for Children Agency of New York City's Human Resources Administration. Special Services for Children is responsible for the provision of protective services to children who have been neglected and abused.

I am also a member of the American Federation of State, County and Municipal Employees, AFSCME, Social Services Employees Union Local 371. About 700 of our locals' 13,000 members are child protective services caseworkers. Nationwide, AFSCME represents over 30,000 workers responsible for the provision of child protective and foster care services.

Congressmen, I'm here to tell you that New York City's child protective service system is in crisis. It is severely overburdened and understaffed.

The tragic beating death of Lisa Steinberg last fall brought media attention to the problem.

But Lisa's death was not an isolated incident. It was merely the tip of the iceberg. Deaths from child abuse in New York City are now occurring sometimes on a weekly basis. This past Friday, another tragedy: A 3-year-old girl, Maya Figueroa, was allegedly beaten to death by a man who was using her to panhandle for money on the streets.

Maya died of wounds to the head and stomach, with internal injuries and internal bleeding. She had cigarette burns all over her body.

More than 100 children died in New York City last year as a direct result of abuse or neglect. Some deaths could not have been prevented, but many of these 100 lives may have been saved had the city's protective services system been adequately funded and staffed.

Unfortunately, the city, the State, and even the Federal Government have not made the protection and safety of our Nation's children a top priority.

The system in New York City is in shambles. It is severely overburdened. More than 76,000 cases of child abuse and neglect were reported in 1987, and so far reports are already up 28 percent this year, while funding levels have remained relatively constant.

Without additional funding, the number of caseworkers has not increased. Instead, caseload sizes have skyrocketed. The current staff of 700 caseworkers cannot properly handle each and every situation.

As a result, some children come to our attention only after they have been seriously injured, or maybe even killed.

The severity of the abuse cases has also risen. Caseworkers must now go into some of the most dangerous places in the city—crack houses—to investigate allegations of child abuse and, if necessary, remove the children.

The system has not adequately responded to the increase in the number or severity of child abuse cases. We do not have the staff, we do not have the money, that is necessary to make the system work properly.

But the system could work. I'm here to tell you that I know the system can work. The reason I know it can work is because I have been in this system for nearly 20 years. I spent the first 15 or 16 years as a frontline caseworker.

And even though, during those times, the work was difficult, it was stressful, and many times it was dangerous. It was also rewarding.

Rewarding because we had the time to protect the children on our caseloads, and we had the time to work with and counsel families with child abuse problems.

So what has happened in child protective services in the last few years? What is it that's preventing caseworkers from doing their jobs properly and protecting our children?

First and foremost, caseload sizes have dramatically increased. Our caseworkers are now carrying well over 40 cases in a system where the accepted professional standard is no more than 20. In fact, a few of our workers are known to have over 90 active cases on their caseload.

The effect of impossibly high caseloads on the worker is not hard to imagine. It is painfully reflected in the high turnover rate among caseworkers, which reached nearly 70 percent in 1987.

Within a year or two, on the job, caseworkers are under so much stress and are so frustrated by the demands placed upon them, they transfer out or they quit. It is a hopeless situation for them. No matter how hard they work, no matter how many hours they put in, there is no way to catch up. There are always families and children on the caseload that you simply cannot help because you just don't have the time.

For every child that caseworkers protect, there is always another Lisa, or another Maya, who manages to slip through the cracks.

In addition to unmanageable caseloads and high turnover rates, our caseworkers must also cope with a severe shortage of foster homes. There are simply not enough permanent foster home placements in New York City. On some nights we have hundreds of children left in the field offices after 5 o'clock, waiting for a one-night emergency bed.

It is not uncommon for some of these children to wait until 2 or 3 o'clock in the morning just to find a place to sleep for a few hours. Some children are forced to spend three, four—sometimes five—nights a week in a different facility. They are called overnight placements. They go to one facility, stay for the night, and the next night they may be sent to a different facility.

Our system, which is designed to protect the child from harm, is instead terribly harmful itself.

Consider the psychological impact that such a situation has on a child. A child who has been removed from a dangerous situation at home, only to be placed in a system that does not seem to care.

I have seen many good children enter the system and quickly become disruptive, belligerent and frustrated because they feel rejected.

As bad as the system is today, Child Protective Service is a vital and manageable job, given the proper resources. But our children will not be protected unless more and better trained staff are hired, caseloads are reduced, more competent foster care parents are recruited, and better foster care facilities are made available.

Mr. Chairman, my union and I are eager to work with you as you search for ways to address and solve these problems. The children in New York, the children around the Nation, are counting on us.

I greatly appreciate this opportunity to testify before the committee, and I will be pleased to answer any questions at this time.

[The statement of Suella Gallop follows:]

STATEMENT OF SUELLA GALLOP, SUPERVISOR IN SPECIAL SERVICES FOR CHILDREN, HUMAN RESOURCES ADMINISTRATION, NEW YORK CITY, AND MEMBER OF THE AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, LOCAL 371, SOCIAL SERVICES EMPLOYEES, DISTRICT COUNCIL 37, NEW YORK CITY

Good morning Mr. Chairman and members of the committee.

My name is Suella Gallop.

I am a caseworker supervisor in Special Services for Children, an agency in New York City's Human Resources Administration. Special Services is responsible for the provision of protective services to children who have been abused or neglected.

I am also a member of the American Federation of State, County and Municipal Employees (AFSCME) Local 371, the Social Services Employees Union in New York City. About 700 of our local's 13,000 members are child protective services caseworkers. Nationwide, AFSCME represents over 30,000 workers responsible for the provision of child protective services.

Congressmen, I am here to tell you that New York City's child protective services (CPS) system is in crisis. It is severely overburdened and understaffed.

The tragic beating death of Lisa Steinberg last fall brought media attention to the problems in protective services, but Lisa's death was not an isolated incident. It was just the tip of the iceberg.

Deaths from child abuse in New York City are now occurring sometimes on a weekly basis. This past Friday, another tragedy—a 3-year old girl, Maya Figueroa, was allegedly beaten to death by a man who was using her to panhandle money. Maya died of blunt-force wounds to the head and stomach with internal injuries and internal bleeding. She had cigarette burns over the body. Maya was an active case in Special Services for Children. She was housed at one of New York City's 600 welfare hotels where more than 9,000 children try to live and survive.

More than 100 children died in New York City last year as a direct result of abuse or neglect. That is 100 lives that may have been saved had the city's CPS system been adequately funded and staffed. Unfortunately, the city, the state of New York, and even the federal government have not made the protection and safety of our nation's children a top priority.

I ask you, how long must we wait before our public officials do something about this tragedy? How many more children must die?

The system in New York City is in shambles. It is severely overburdened as it tries to cope with the more than 76,000 cases of child abuse and neglect that were reported in 1987. Reports of abuse and neglect are already up 28 percent this year while funding levels have remained relatively constant.

Without additional funding, the number of caseworkers has not increased. Instead, caseload sizes have skyrocketed. Untold numbers of child abuse cases remain uncovered, because the current staff of 700 cannot possibly handle each and every situation. As a result, some children come to our attention only after they've been seriously injured or maybe even killed.

Not only the number, but the severity of the abuse cases has risen. Caseworkers must now go into some of the most dangerous places in the city—"crack houses"—to investigate reports of child abuse and remove the children, if necessary. AIDS has also had an impact on caseworkers as a large number of AIDS-infected babies born to intravenous drug abusers are victims of child abuse. The AIDS babies are a group of special needs children that 5 years ago simply did not exist.

The system has not adequately responded to the increase in the number or severity of child abuse cases in our society. We do not have the money, the staff or the training that are necessary to make the system work properly. As a result, child protection services is incapable of performing its role effectively, placing far too many of our children at unnecessary risk.

But the system can work. I have seen it work. For twenty years I have worked in New York City's child protective services system. My first fifteen years were spent as a front-line caseworker in which I was responsible for investigating allegations of child abuse and neglect; making what many times was a life or death decision about whether a child was in imminent danger of abuse, and if so, removing that child from the family and finding a suitable placement.

Although the work was difficult, stressful and many times dangerous—requiring us to go to all parts of the city, at all hours of the day or night to remove a child from a potentially hostile parent—it was indeed rewarding. Rewarding, not just because we were able to protect children from further harm, but also because we had the time to work with and counsel families with child abuse problems so that one day the child could be reunited with his or her parents. A success story in my profession is not the removal of a child from an unsafe situation, but rather the satisfaction of knowing that a child could safely return to a family that has overcome its problems.

Unfortunately, these success stories have become few and far between in today's overburdened and understaffed child protection service system. For the past 5 years, as a line-supervisor and now as a supervisor responsible for training caseworkers, I have witnessed the steady destruction of our protective services system.

What has happened in child protective services in the last few years? What prevents caseworkers from doing their jobs properly and protecting our children?

First and foremost, caseload sizes have dramatically increased. Caseworkers are now carrying well over 40 cases in a system where the accepted professional standard is no more than 20. In fact, a few of our workers are known to have over 90 active cases.

And while the caseworkers are trying to cope with these astronomical caseloads, the reports of child abuse continue unrelentingly. Workers are now being assigned 10 to 15 new investigations per month. This is far too many. Proper investigations take time. The worker must be prepared to make the correct judgment regarding the removal of the child from the family.

In the past, workers received only one new investigation per week (4 or 5 per month). If you are receiving as many as 3 or 4 new cases per week, the only thing you can do is make initial phone contacts or do court work. There is simply not enough time to do the intensive investigation that is necessary.

In order to be safe, you end up removing the child because you cannot do a proper investigation and because you know you do not have time to do follow-up work with the family since your continuing caseload is so high. Many families that could remain together, given proper counseling and attention, are split apart unnecessarily—placing further burden on the system.

The effect of impossibly high caseloads on the worker is not hard to imagine. It is painfully reflected in the high turnover rate among caseworkers in Special Services which reached nearly 70 percent in 1987. Within a year or two on the job, caseworkers are under so much stress and are so frustrated by the demands placed on them that they transfer or quit.

It is a hopeless situation for them. No matter how hard you work, no matter how many hours you put it, there is no way to catch up. There are always families and children in your caseload that you simply cannot help because you lack the time. For every child caseworkers protect, there is always another Lisa or Maya who slips through the cracks.

It is not uncommon for caseworkers to work from 9 am to after midnight, 3 or 4 days a week. Even with all of this overtime, they cannot see the light at the end of the tunnel because there is always more work and more cases.

The high turnover, of course, creates a vicious cycle. Experienced staff are replaced by new, inexperienced workers. Workers who remain on the job must take on responsibility for the cases of the workers who leave. Everyone's caseloads increase even more.

In addition to unmanageable caseloads and high turnover rates, caseworkers must also cope with paperwork requirements that have gotten out of control, a family court system that itself is overburdened and places unnecessary demands on caseworkers' time, and a severe shortage of foster homes. Each of these problems compounds the difficulties caseworkers face, but none is more serious and has a more negative impact on the child than the shortage of foster homes for children who have been removed from their families.

There are simply not enough permanent placements in New York City for victims of child abuse. What results is a situation where on some nights hundreds of children are left in our field offices waiting for one-night emergency beds. It is not uncommon for a child to have to wait until 2 or 3 am to find some place to sleep. Caseworkers have been known to work through the night to secure beds for children.

The words hardly match the horror of this situation. Some children are forced to spend 3 or 4 nights per week in different one-night shelters—moving from one facility to another, from one traumatic situation to another. The system that is designed to protect the child from harm, is instead terribly harmful itself.

It would be difficult to overstate the psychological impact that such a situation has on a child—being removed from a dangerous situation at home only to be placed in a system that does not seem to care. It is not difficult to imagine the rejection children must feel to know that nobody wants them, that they must go from house to house, from bed to bed as the the time at each temporary placement expires.

I have seen many good children enter the system and quickly become disruptive, belligerent and frustrated because they feel rejected. The system is failing. It is in crisis all the time. Something must be done.

As bad as the situation is today, child protective services is a vital and manageable job given the proper resources. The system worked well when I first became a caseworker nearly 20 years ago, and I am convinced it can work well again. But we need to renew our commitment to our nation's children, for there is no greater government responsibility than protecting the young.

It is often and accurately said that the rise in child abuse and neglect can be traced to increased poverty, unemployment, homelessness, and drug abuse. Nonetheless, until and unless these problems are addressed we must protect those children who are victimized.

They are not being protected now and they will not be protected unless more and better trained staff are hired, caseloads are reduced, more competent foster care parents are recruited, and better foster care facilities are made available. Mr. Chairman, my union and I are eager to work with you as you search for ways to address and solve these problems.

Any solutions, of course, will require a substantial commitment of state and federal funds. I know it will be a difficult fight. The caseworkers and children in New York and around the nation are counting on us.

I greatly appreciate this opportunity to relate my experiences as a caseworker and supervisor in child protective services to the committee. I would be pleased to answer any questions at this time.

Acting Chairman Downey. Thank you, Ms. Gallop.

Ms. Fink.

STATEMENT OF LENORE GITTIS, ATTORNEY-IN-CHARGE, JUVENILE RIGHTS DIVISION, LEGAL AID SOCIETY OF NEW YORK CITY, AS PRESENTED BY JANET FINK, ASSISTANT ATTORNEY-IN-CHARGE

Ms. Fink. Good afternoon, Mr. Chairman and members of both committees.

I am Janet Fink, assistant attorney-in-charge of the Juvenile Rights Division of the New York City Legal Aid Society, appearing on behalf of Lenore Gittis, attorney-in-charge, who, regrettably, could not be here.

In 1987 the juvenile rights division represented approximately 30,000 children in New York City's family courts, including over

16,000 in abuse and neglect cases—over a 60-percent increase in these cases following an unprecedented 197 percent 3-year rise.

This increase is not unique. It parallels a deeply troubling and substantial national growth in such cases which, as Ms. Gallop testified, has severely strained child welfare and foster care resources.

Because children do not get the services they need and are legally entitled to, we have instituted several class action lawsuits. Thus our testimony is informed not only by our family court experience, but also by this litigation.

Besides the preventive services, reunification and reasonable efforts problems mentioned by others, the most critical foster care problem facing New York City has been the shortage of even minimally appropriate placements for children in care, a crisis resulting from three factors: the increase in the number of abuse and neglect petitions, an earlier contraction of the system, in part from a shift from foster care to prevention and permanence, and a decrease in the traditional pool of potential foster parents without sufficient attention paid to innovative recruitment efforts. Like New York, other communities have been unable to meet the demand for both suitable foster care placements and preventive services.

In addition to providing an adequate level of funding for the full range of services for families and children, and oversight of that funding, we are here today to urge Congress to consider three specific amendments to make Public Law 96–272 even better than it is now.

First, we urge Congress to amend the least restrictive placement mandate of the Adoption Assistance and Child Welfare Act by deleting the word "available," so that it reads, "Each child has a case plan designed to achieve placement in the least restrictive, most family-like setting, and in close proximity to the parents' home, consistent with the best interests and special needs of the child."

Second, we recommend that Congress provide fiscal incentives for States to adopt special procedures for quickly approving children's relatives as foster parents, to allow eligibility for foster care maintenance payments and medicaid.

Third, we urge an amendment requiring each State plan under the act to provide for local foster care ombudsmen to provide outreach to children and monitor the quality of care they receive.

First, I will address the least restrictive mandate. In New York and other cities, the demand for foster beds has far outstripped the supply. Our social services agency has reacted by devising makeshift strategies that have had as devastating an effect on children as the original precipitating problems.

Unfortunately, as other cities' foster care populations approach capacity, New York's inappropriate and destructive solutions will probably be replicated out of expediency. Most of the children affected by the bed shortage have already suffered multiple trauma, the damage caused by the original neglect and abuse, and the stress occasioned by removal from home—even an abusive home.

New York's agency responded originally by forcing children to sleep in the agency's office, and now, as you've heard, by bouncing children from one placement to another every one or two days, placing young children in excessively restrictive placements for extended periods of time, and even attempting to induce psychiatric centers to take children only because they have been repeatedly placed night to night. Children in New York are still placed, and replaced, and replaced—and young children are housed in overly large congregate facilities.

In 1986 we brought a class action in Federal court entitled *Doe* v. *Department of Social Services*, to challenge the very practice that Ms. Gallop testified to—the practice of night to night placements, and of using agency offices as shelters. The court found that these practices violated the Fourteenth Amendment, and is now considering the scope of the injunction that it will grant.

Over the year and a half that we have collected data in the *Doe* case, in excess of a thousand children like Daryl and Boyd, whom you heard from earlier, have been subjected to multiple, inevitably damaging, overnight placements. Well over 450 have had 10 or more placements, and many have had over 20 in a short period. A 4-year-old had 18 placements in April, and 19 in June. An 8-year-old had 19 in July and 8 in August, all in 1987. A 17-year-old with a total of 52 placements had 21 in April and 20 in May. Recently a 10-year-old autistic child was on night-to-night placements for 4 weeks, and his behavior obviously deteriorated visibly. A 12-year-old who had attempted suicide before entering foster care had 17 placements in 28 work days.

These children are caught in a vicious cycle. The repeated disruptions caused by these multiple placements cause their behavior to deteriorate, foster care agencies thus reject them, and they continue to be placed night to night.

The agency's congregate facility strategy similarly impedes development. The agency places children in facilities with up to 60 beds, they mix young children in adolescent group homes, and now rely upon four-to-six bed facilities for children through 6 years of age where they are subjected to a minimum of six different caretakers per week. Some of these facilities are in storefronts and other distinctly unhomelike settings, in violation of the Federal law. They do not have adequate space for play, they are overcrowded, and they have an oppressive atmosphere. Obviously, they are shelters, not authentic foster care placements.

New York gets away with this, in part, since, in addition to the failure of oversight, the act only mandates that a child be placed in the least restrictive, most family-like setting available.

The amendment we are proposing, which would delete the word "available," would require social service agencies to provide each foster child with the most homelike setting consistent with the best interests and special needs of the child, essential to prevent agencies from opting for the wholesale development of large or inappropriately staffed congregate shelters in order to accommodate the influx of children into foster care.

It is not a novel idea and indeed is comparable to the absolute Federal special education mandate for the least restrictive environment.

Second, I will address the need for certification procedures for relatives for foster care. The trauma caused by removing a child from natural parents may be minimized if the child is placed in a home with a suitable caring relative, a vital resource that should be strongly encouraged. At a time when foster care systems nationwide are experiencing severe foster parent shortages, relatives furnish an additional pool of concerned and willing foster parents. To take advantage of this, we propose Federal financial incentives to States that enact laws or regulations expediting the foster parent certification process for eligible relatives, similar to the New York model that has begun to be implemented.

Historically, New York encouraged placement of children with relatives to preserve continuity of family contacts, permitting them to care for children without obtaining foster home certification. But the children were thereby deprived of the basic financial assistance services and supervision afforded to children in stranger foster care.

In 1985 the New York State Department of Social Services promulgated regulations and created an approval procedure that waived some of the more technical requirements of certification. But since compliance was rare to nonexistent in New York City, we initiated a lawsuit entitled, *Eugene F.* v. *Gross*, currently pending in the State supreme court, which challenged the agency's failure to provide children who reside with relatives with prompt determinations as to foster care status, and with needed emergency financial, medical and other assistance.

As a direct result of the negotiations in that action, an eligible relative may now receive conditional approval as a foster parent within 24 hours from the time the child is remanded to the city's care and custody. The child may be placed immediately in the relative's home, without having to undergo the disruption caused by an initial period of foster care with strangers. The full approval process must then be completed within 2 months, during which time the child is entitled to receive foster care payments, Medicaid and other services.

The importance of a kinship home as a resource is well illustrated, not only by the earlier testimony we heard from Daryl, but also by the case of a physically abused 5-year-old we represented in family court. He suffered from hyperactivity and medical problems, and no appropriate foster home was available for him. He was bounced from home to home to home 24 times in just over a month. Eventually, the agency located the boy's paternal grandfather, who should have been utilized in the first instance. His nightmare of overnight placements finally came to an end.

Yet the development of a system for kinship foster care is hampered by a lack of serious commitment at the local level, and has been painfully slow and subject to lengthy backlogs of related caretakers awaiting approval as foster parents. If Federal incentives were available it is probable that compliance with existing relative foster care laws and regulations would improve.

Notwithstanding our implementation difficulties, it is our firm belief that the benefits to children of kinship care are substantial, and should be encouraged through these incentives.

Finally, I will address the need for a children's ombudsman program. All too often children have been abused in foster care, warehoused in overcrowded institutions unresponsive to their needs, and even jailed in violation of clear Federal mandates. All too often children's cries go unheeded, as most States have no mechanisms to reach out to children in care, to hear their concerns, and remove them from harmful situations.

Older children react to such abuse by compounding the injuries by running away, acting out violently, or self-destructively. Younger children may have no outlets whatsoever, except to continue to suffer psychological as well as physical deterioration.

Children in foster care and institutions in New York City have withstood placement in facilities which are unlicensed by the State, overcrowded, unsupervised and without necessary therapeutic services. They have been held in homes and even mental hospitals where they've been subjected to physical and sexual abuse, and in substandard facilities with malfunctioning or nonexistent fire safety systems—all without effective means of redress.

Girls at two centers, the subject of another of our cases, *Jane B.* v. *New York City Department of Social Services*, have serious behavioral and emotional problems but are simply warehoused for months, or even years, in reception and diagnostic centers that are unsafe and provide no diagnoses. These centers are poorly supervised, filthy, overcrowded, lacking in programs, understaffed, rife with fights between residents and sexual abuse—a situation not unique to New York, but all too common nationally.

Existing mechanisms are clearly insufficient. Neither existing regulatory mechanisms nor reliance upon counsel in the children's original cases in the family courts, can remedy this situation, even assuming the children have counsel in such cases.

What is needed is a coordinated system for responding to reports of institutional abuse and maltreatment, and for providing ongoing oversight to insure quality care—namely, an ombudsman program, perhaps along the lines of that proposed last year in the proposed Young Americans Act of 1987. Optimally, it should be included as a condition of funding under Public Law 96-272, and should be applicable to all children in foster care, not merely in institutions. It should draw upon existing successful experiences of programs in the juvenile correctional arena, such as those in New York and here in Washington, DC.

New York's ombudsman program, the first of its kind nationally, was established by the State's Division for Youth in 1972. In 1975, in response to a Legal Aid Society lawsuit, the Federal district court ordered a similar program in the city's secure juvenile detention facility, using a rationale equally apt in the foster care context. Foster care is as yet uncovered by such programs. The court said, "There is an important need for a continuing mechanism, outside the normal chain of responsibility, to provide an advocate for individual cases requiring attention,"—an advocate who "should be instrumental in developing feelings of justice and fairness within the system, based on a response to individual need."

To be effective, ombudsmen programs should be nonpolitical, and functionally independent of the public and authorized placement agencies they oversee. They should have sufficient authority to compel effective remedial action, and enjoy effective access to top agency management. They must also be adequately staffed to allow frequent visits to a wide spectrum of programs. Importantly, the programs should include an effective investigation and response mechanism to address individual cases of abuse and maltreatment, insuring ongoing contact with children in care on a confidential basis, so that they can obtain effective redress and protection from harm.

Encouraging States through fiscal incentives will not be sufficient to overcome the predictable, self-protective resistance likely to be encountered in most jurisdictions. Therefore, requiring such programs in State plans submitted pursuant to Public Law 96-272, appears to us to be the best means of ensuring that they will, in fact, be created and maintained.

In conclusion, there are no simple solutions to the problems that beset the foster care system. The number of particularly young children entering care will probably continue to increase at an alarming rate, and it is likely that a sizable percentage will continue to suffer serious impairments, exacerbating the existing bed shortage crisis.

Without these suggested amendments, we can expect that the dark side of the New York City experience will be replicated nationally, causing serious and potentially permanent injuries to children. Unless we are vigilant and careful, we will see the return of large, oppressive orphanages and institutions that for so many years so many of us fought so hard to close.

On behalf of our clients, and The Legal Aid Society, we thank you for the opportunity to present our views on these vital issues, and applaud your efforts and commitment to make Public Law 96-272 a reality for children.

Please let us know if we can answer questions or be of any further assistance to the committee.

[The statement of Lenore Gittis follows:]

PREPARED STATEMENT OF LENORE GITTIS, ATTORNEY-IN-CHARGE OF THE LEGAL AID SOCIETY, JUVENILE RIGHTS DIVISION, NEW YORK CITY

I am Lenore Gittis, Attorney-in-Charge of the Juvenile Rights Division of The Legal Aid Society of the City of New York.

The Legal Aid Society is the nation's largest and oldest provider of legal services to the indigent. The Juvenile Rights Division represents children in cases before the New York Family Court involving child abuse and neglect, Persons in Need of Supervision, delinquency, termination of parental rights and other proceedings affecting children's welfare and rights.

In 1987, the Juvenile Rights Division represented approximately 30,000 children in these proceedings, including over 16,000 children who were subjects of original abuse and neglect cases. In 1986 we represented 9800 such children, a 66.5% increase in only one year. This dramatic one-year growth follows an unprecedented 197% rise in our child protective caseload between 1983 and 1986. The increase in the number of neglect and abuse cases in New York City is not unique; it parallels a deeply troubling and substantial national growth in such cases.[1]

The sharp rise in New York City's child protective caseload has severely strained its child welfare and foster care resources. Children do not get the services they need and to which they are clearly entitled by federal and state law. Recognizing the pervasive and systemic lack of adequate and appropriate services for our clients, The Society has instituted several class action lawsuits to challenge some of the worst aspects of the foster care system. Thus, the Society's testimony is informed not only by our Family Court experience, but also by this litigation.

In addition to continuing, serious deficiencies in the provision of preventive services, the most critical problem in the foster care system in New York City for the last three years has been the shortage of even minimally appropriate placements for the children in care. In large part, this crisis has resulted from three factors: the increase in the number of abuse and neglect petitions that were filed; an earlier contraction of the foster care system that resulted, in part, from a national shift in emphasis from long term foster care to preventive services and permanency either through adoption or a return home; and a decrease in the traditional pool of potential foster parents due to the entry of many women into the workforce outside the home. These conditions exist nationally, and like New York, other communities have been unable to meet the demand for suitable foster care placements or essential foster care and preventive services.

The crisis in the foster care system cannot be permanently resolved without first taking substantial steps to end poverty and solve the ever-mounting national drug epidemic. Nonetheless, there are actions that Congress can take that will ameliorate some of its most devastating effects. In addition to providing an adequate level of funding for the full range of services for families and children, we urge Congress to consider:

1. Amending § 475(5)(A) of the Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C. § 675(5)(A), ["P.L. 96-272"], by deleting the word "available," so that it reads:

> (A) each child has a case plan designed to achieve placement in the least restrictive (most family like) setting ~~available~~ and in close proximity to the parents' home, consis-

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[1] The most recent available national data show that in 1985, 1.9 million children and adolescents were reported as abused or neglected -- a 10.7% increase over 1984 and a 58% increase over 1981. Children's Defense Fund, A Children's Defense Budget (1988), at 175.

tent with the best interest and special needs of the child;

2. Providing fiscal incentives for states to adopt special procedures for approving children's relatives as foster parents, thus making a child placed with an approved relative eligible for foster care maintenance payments and Medicaid, including an expedited approval process; and

3. Requiring each state plan under P.L. 96-272 to provide for local foster care Ombudsmen to provide outreach to children and monitor the quality of care they receive.

1. A STRONGER FEDERAL MANDATE FOR LEAST RESTRICTIVE FOSTER SETTINGS IS NEEDED.

In New York City and other metropolitan areas, the demand for foster beds has far outstripped the supply. New York City's social services agency has reacted to the influx of children into the foster care system by devising makeshift strategies that have had as devastating an effect on many children as the original problems that propelled them into that system. Unfortunately, as other cities' foster care populations approach the capacity of their systems, New York's inappropriate and destructive "solutions" will probably be replicated simply out of expediency.

It must be remembered that the vast majority of the children in foster care enter the system on neglect or abuse petitions or voluntary placements resulting from serious family problems and through dislocations. Therefore, most of the children affected by the bed shortage have already suffered multiple trauma -- the damage caused by the original neglect or abuse, the confusion and fears caused by serious family problems and, always, the emotional distress occasioned by the removal from home, even if it is a neglectful or abusive home.

At various times, New York City's social services agency has responded to the bed shortage by forcing children to sleep in the agency's office, bouncing children from one placement to another every one or two days, placing young children in excessively restrictive placements for extended periods of time, and attempting to induce psychiatric centers to take children only because they have been repeatedly placed night-to-night. At present, children in New York are still repeatedly placed on an overnight basis and young children are housed in congregate facilities.

In May, 1986, The Legal Aid Society brought a class action in federal court, Doe v. New York City Department of Social Services, 670 F. Supp. 1145 (S.D.N.Y. 1987), to challenge the then-current practices of night-to-night placements and using agency offices as shelters. The court found that these practices violated the Fourteenth Amendment and held that the plaintiffs were entitled to a preliminary injunction. The court is now considering the scope of the injunction that it will grant.

Over the year and a half that we have collected data as part of the Doe case, in excess of a thousand children have been subjected to multiple, and inevitably damaging, overnight placements. Well over 450 children have had 10 or more placements, and many children have had over 20. These placements were almost always concentrated in a short period of time. For example, a four year old had 18 placements in April and 19 in June, 1987. An eight year old had 19 placements in July (a placement every work-day but 3) and 8 placements in August. A seventeen year old with a total of 52 placements had 21 placements in April and 20 placements in May.

While all of these children are fragile because of the dual trauma of neglect or abuse and removal from home, some are at even greater risk. Recently, a ten year old autistic child was on night-to-night placements for four weeks, and his behavior deteriorated visibly. A twelve year old girl who had attempted suicide before entering foster care had 17 placements in 28 work-days. She was rejected by facilities because of her aggressive behavior, which intensified while she bounced from one placement to another. These children are caught in a vicious cycle -- they are subjected to multiple placements either by chance or because of relatively benign behavior problems, the repeated disruptions cause their behavior to deteriorate, foster care agencies reject them because they are less manageable, and they continue to be placed night-to-night.

The New York City agency's current strategy of opening congregate facilities for young children is likely to impede these children's development. It has placed children birth through ten years old in institutions with up to 60 beds and in adolescent group homes. Currently, the agency is relying primarily on four to six bed facilities for children from birth through six years of age. These small facilities do not have live-in house parents, so these children are subjected to a minimum of six caretakers each week. The serious damage to children caused by such caretaking arrangements has been well documented for over forty years. To develop properly, a child needs a stable, consistent and extremely limited group of caretakers.[2]

Moreover, some of these smaller facilities are in storefronts and other distinctly unhome-like settings. They do not have adequate space so that the toddlers and pre-schoolers can move around and play, both of which are essential to their health and development. Some are overcrowded and have an institutional and oppressive atmosphere. These facilities are shelters, not authentic foster care placements.

The use of congregate facilities for young children is contrary to the intent of P.L. 96-272, but it may not actually violate the Act. P.L. 96-272 only mandates that a child be placed in the "least restrictive (most family like) setting available." 42 U.S.C. § 675(5)(A)(emphasis supplied).[3] In New York, these small congregate care facilities are the least restrictive ones that are currently available for children under six years of age, although they are impoverished environments and are inconsistent with the children's needs.

The amendment that we are proposing -- deleting the word "available" from 42 U.S.C. § 675(5)(A) -- would require social services agencies to provide each foster child with the most home like setting that is "consistent with the best interest and special needs of the child." Such a clear federal mandate is essential to prevent local agencies from opting for the wholesale development of large or inappropriately staffed congregate shelters in order to accommodate an influx of children into care. When the foster care population approaches a system's capacity, an administrator may decide that just having enough beds is more important than ensuring that the facilities that house the beds comply with minimum professional standards.

Making a least restrictive setting provision mandatory is not a novel idea. State and local educational agencies must provide special education in the least restrictive environment. 20 U.S.C. §§ 1412(5)(B), 1414(a)(1)(C); 29 U.S.C. § 794; 34

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[2] See, e.g., Rutter, Maternal Deprivation Reassessed, Penguin (Harmondsworth 1974), at 25, 53, 70-71, 101-102; Provence, Guide for the Care of Infants in Groups, Child Welfare League of America, Inc. (New York 1971), at 11, 90; Bowlby, Maternal Care and Mental Health and Deprivation of Maternal Care, Schocken (New York 1966), at 130-33.

[3] The least restrictive setting provision is only mandatory when more than $141 million are appropriated for child welfare services. To be subject to this provision, the state must either apply for more than its share of a $141 million appropriation or seek reimbursement for child welfare services from the unused funds allocated for foster care maintenance or adoption assistance payments. 42 U.S.C. §§ 627(a)(2)(B), 674(c)(4)(A).

C.F.R. §§ 104.34(a), 300.500-.556.

Without the suggested amendment to P.L. 96-272, state and local social services agencies do not have an adequate fiscal incentive to provide foster care in the most home like setting that is appropriate to the individual child. Nor do children's advocates have a clear statutory requirement that they can enforce through litigation. We, therefore, urge Congress to consider this proposed amendment.

RECOMMENDATION: To amend 42 U.S.C. § 675(5)(A) to read:

> (A) each child has a case plan designed to achieve placement in the least restrictive (most family like) setting ~~available~~ and in close proximity to the parents' home, consistent with the best interest and special needs of the child;

2. FEDERAL FINANCIAL INCENTIVES ARE NEEDED TO ENCOURAGE STATES TO ADOPT SPECIAL CERTIFICATION PROCEDURES FOR KINSHIP FOSTER HOMES.

The trauma caused by removing a child from the natural parents may be minimized if the child is placed in a home with a suitable, caring relative. Kinship foster care, which, based on our experience, often provides greater psychological and emotional stability for children than more traditional foster care arrangements, constitutes a vital resource that should be strongly encouraged. Indeed, at a time when foster care systems nationwide are experiencing severe foster parent shortages, relatives as caretakers furnish an additional available pool of concerned and willing foster parents.

To take advantage of this valuable resource to the maximum extent, we propose that the federal government offer financial incentives to states that enact laws or regulations expediting the foster parent certification process for eligible relatives. We believe that current policies in New York State provide a valuable model for the utilization of related caretakers within the foster care system.

Historically, New York State has given priority to the out-of-home placement of children with relatives as the optimum way to preserve the continuity of the children's experiences and relationships. Until recently, relatives were often permitted to care for children in public custody without obtaining foster home certification. While these children benefited from living with their relatives, they were deprived of the basic financial assistance, services and supervision afforded to children in stranger foster care because the relatives' homes were not certified or licensed.

In late 1985, the New York State Department of Social Services promulgated regulations which required related caretakers within the second degree of the child's parent to be "approved" as foster parents and created an approval procedure that waived some of the technical requirements of certification for these relatives.[4] Recognizing the importance of kinship foster homes in the cases of children we represented in child abuse and neglect cases in New York's Family Court, as well as the serious hardships which many of them endured, we initiated a lawsuit entitled Eugene F. v. Gross, Index #1125, which is currently pending in Supreme Court, New York County. Among other systemic deficiencies, plaintiffs challenged the state and local social services agencies' failure to provide children who reside with relatives with prompt determinations as to foster care status and with needed emergency financial, medical and other assistance.

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[4] For example, among the standards inapplicable to kinship foster care are those concerning physical conditions in the home such as the number of windows that are required to be in each bedroom used by a foster child and whether a foster child may sleep in a room not exclusively used as a bedroom.

As a direct result of negotiations in this action, an eligible relative may now receive conditional approval as a foster parent within 24 hours from the time the child is remanded to the care and custody of the New York City Commissioner of Social Services. This means that the child may be placed immediately in the relative's home and does not have to undergo the disruption caused by an initial period of foster care with strangers. The full approval process of the relative's home must be completed within two months. During this time, the child is to receive foster care maintenance payments, Medicaid and other services available to foster children. Recently, the New York State Legislature expanded the class of eligible relatives to include those within the third degree of consanguinity of the child's parent, or within the fourth degree of the child.[5]

The importance of the kinship home as a resource is well illustrated in the case of a physically abused 5-year-old boy whom we represented in a Family Court child protective proceeding. The boy, who had been removed from his parents, suffered from hyperactivity and medical problems. Initially, no appropriate foster home was available for him, and he was bounced from one group home to another 24 times between March 19 and April 23, 1987. Eventually, the agency located the boy's paternal grandfather, who was willing and able to care for him and who was granted approval to do so under the expedited procedure. The nightmare of overnight placements finally came to an end.

Despite all this, the development of a system for encouraging and implementing kinship foster care is hampered by a lack of serious commitment at the local level and has been painfully slow. We have encountered an overwhelming number of instances where relative foster parents have not received foster care payments in a timely fashion and where Medicaid cards and other services have not been provided. Furthermore, lengthy backlogs of related caretakers awaiting approval as foster parents continue to exist. If federal incentives were available, it is highly probable that compliance with existing relative foster care laws and regulations would improve.

Notwithstanding the implementation difficulties that we are experiencing in New York City, it is our firm belief that the principle of kinship foster care is significant and the benefits for the child of such care are substantial. Consequently, we recommend that Congress provide financial incentives to encourage other states to enlarge their kinship foster care programs and to enact specific laws and regulations designed to simplify and expedite the kinship foster care certification process

RECOMMENDATION: Federal fiscal incentives should be made available to states that enact laws or regulations expediting the process for the certification of kinship foster parents and waiving the more technical requirements that are typically applied to non-relative foster parents.

3. A CHILDREN'S OMBUDSMEN PROGRAM IS NEEDED.

All too often, as this Committee knows, children have been abused in foster care, warehoused in overcrowded institutions that are unresponsive to their particular needs, and even jailed in violation of clear federal mandates.[6] All too often, children's cries go unheeded, as no mechanisms exist in most localities to reach out to children in care to hear their concerns and to remove them from harmful situations. Older children may react to abuse in a manner which can compound the injuries by running away or by acting out violently or self-destructively.[7] Younger children may have no outlet whatsoever except to continue to endure devastating conditions and suffer psychological as well as physical deterioration.

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[5] Relatives within the third degree of consanguinity of the child's parent, or the fourth degree of the child, include the child's grandparents, great-grandparents, great-great-grandparents, aunts/uncles, great aunts/uncles and first cousins.

[6] See, e.g., "Children in State Care: Ensuring their Protection and Support", Hearing before the House Select Committee on

Children in foster care and institutional programs in New York City have withstood placement in facilities unlicensed by New York State; in over-crowded and unsupervised facilities that do not provide necessary services, including diagnostic and therapeutic services; in homes and even mental hospitals where they have been subjected to physical and sexual abuse; and in substandard facilities with malfunctioning or non-existent fire-protection systems. These children have endured substantial violations of their rights and substandard care without effective access to means of redress.

To remedy the shocking conditions at two Diagnostic Reception Centers, The Legal Aid Society initiated Jane B. v. New York City Department of Social Services, 87 Civ. 2470 (S.D.N.Y. 1987), a civil rights class action, which is currently pending in the United States District Court in Manhattan. The girls placed at these centers have serious behavioral and emotional problems and, consequently, the need for supervision and treatment. Irrespective of their needs, these girls are simply warehoused, often for months or even years, in reception centers that are unsafe, poorly supervised, filthy, overcrowded and understaffed. Fights between residents, as well as violent confrontations with staff, are common. The girls are subjected to prolonged, enforced periods of idleness and are deprived of prompt and adequate diagnostic services; medical services; psychological, psychiatric and counselling services; education; recreation; and exercise. Some of the deplorable conditions that prompted the Jane B. case exist at many other foster care facilities in New York City.

Existing mechanisms requiring institutional child abuse reporting have failed to fulfill their promise of safe foster care settings. Providing counsel to children in the context of individual child protective, delinquency or other cases likewise cannot meet the children's needs for assistance and protection once these cases reach disposition in court. Even during the pendency of a juvenile or family court case, the conditions of confinement, particularly systemic deficiencies, are often outside the scope of the court's focus and are not addressed.[8]

Children, Youth and Families, 99th Cong., 2nd Sess. (September 25, 1986).

[7] For example, the suicide rate of youth in adult jails has been reported to be eight times that of youth in juvenile facilities. Id., at 5.

[8] Significantly, not all youth are even represented by counsel in such cases. While In Re Gault, 387 U.S. 1 (1967), mandated counsel for youth in delinquency cases nationwide, implementation has been uneven and has not, in many localities, been extended to encompass child protective, status offense or foster care proceedings. Spurred in part by the enactment of the federal Child Abuse Prevention and Treatment Act of 1974, 42 U.S.C. § 5101, 5115, forty-one states have enacted requirements for advocates to represent children in child protective proceedings, but only twenty-five of these require these advocates to be attorneys [Butz, "Lawyering for the Abused Child", 29 U.C.L.A. L. Rev. 1216, 1222, 1229 (1982)]. Moreover, many, if not most, states, including New York, fail to provide advocates for youth in "voluntary" foster care placement and review proceedings, despite repeated recommendations to the contrary. See, e.g., Mayor's Task Force on Foster Care Services, Redirecting Foster Care (1980), at 57-58; Fink, "Determining the Future Child:

What is needed is a coordinated system for responding to reports of institutional abuse and maltreatment and to provide ongoing oversight to ensure the quality of care children receive -- namely ombudsmen.[9] However, there is no realistic likelihood that states will create a foster care ombudsmen office unless Congress requires one as a condition of funding under P.L. 96-272. Such a mandate could draw upon the successful experiences of existing programs in the juvenile correctional arena, such as those in New York and Washington, D.C.[10]

New York's ombudsman program, the first of its kind nationally, was established by the State Division for Youth in 1972. In 1975, in response to a Legal Aid Society lawsuit, the federal district court in New York ordered that a similar program be established in the City's secure detention facility. The rationale articulated by the Court in that case is equally apt in the foster care context:

> A period of stay in detention, however brief, can be a threatening and frustrating experience for many youngsters. *There is an important need for a continuing mechanism, outside the normal chain of responsibility, to provide an advocate for individual cases requiring attention.* This function can best be filled by the appointment of an impartial Ombudsman, qualified to investigate complaints and propose resolutions.
>
> An Ombudsman, so authorized, can give children within the detention system access to a mechanism for resolving complaints separate from the established structure. To accomplish this purpose the Ombudsman must be authorized to investigate and give prompt attention to facts brought to him by the children relating to the detention program, legal representation and probation activities; and *he should be instrumental in developing feelings of justice and fairness within the system based on a response to individual need.* [*Martarella v. Kelley*, 359 F. Supp. 478 (S.D.N.Y. 1973), *enforced*, Order of March 26, 1975.][Emphasis added.]

To be effective, foster care ombudsmen programs should be non-political and functionally independent of the public and authorized placement agencies they oversee. They should have sufficient authority to compel effective remedial action and enjoy effective access to agency management. They must also be adequately staffed to allow frequent visits to a wide spectrum of programs. Perhaps most important, the programs should include an effective investigation and response mechanism to address individual cases of abuse and maltreatment -- a mechanism that ensures ongoing contact with children in care on a confidential basis, so that children can obtain effective redress and protection from harm.

Simply encouraging states through fiscal incentives or other means to establish ombudsmen programs clearly will not be sufficient to overcome the predictable, self-protective resistance

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Actors on the Juvenile Court Stage", in Hartmann, ed., *From Children to Citizens*, Vol. II (Springer-Verlag, 1987), at 291.

[9] This concept is similar to the ombudsman provision in the Young Americans Act of 1987 (S. 476/H.R. 1003), which was introduced by Senator Christopher Dodd and Representative Claude Pepper on February 4, 1987.

[10] The Washington, D.C. Public Defender Service, for example, employs a unit, composed of attorneys and student interns, to visit juveniles in the area's detention and correctional facilities. Testimony of Diane Shust, "Children in State Care," note 6, *supra*, at 80, *et seq*.

likely to be encountered in most jurisdictions. Therefore, requiring such programs in the state plans submitted pursuant to P.L. 96-272 appears to us to be the most efficacious means of ensuring that they will in fact be created and maintained. Therefore, we strongly urge the Committee to urge amendment of P.L. 96-272 to require inclusion of adequately staffed ombudsmen programs as an enumerated element of annual state plans.

RECOMMENDATION: Amend P.L. 96-272, 42 U.S.C. § 671 to require inclusion of ombudsmen programs to provide outreach to children in foster care and monitor the quality of care they receive.

CONCLUSION

There are no simple solutions to the problems that beset the foster care system. The number of children, especially young children, entering care will probably continue to increase at an alarming rate, and it is likely that a sizable percentage of these children will continue to suffer serious impairments. A continuation of these trends will exacerbate the existing bed-shortage crisis.

Without the amendments to P.L. 96-272 that we have proposed, one can expect that the New York experience will be replicated across the country causing serious and potentially permanent injuries to these children. Unless we are vigilant and careful, we will see the return of the large, oppressive orphanages and institutions that for so many years so many of us fought so hard to close.

On behalf of our clients and The Legal Aid Society, I thank you for the opportunity to present our views on these vital issues.

April 13, 1988

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Acting Chairman **Downey**. First of all, let me thank the panelists for excellent testimony.

Mr. Lepak, can you tell us a little bit about what you have in Contra Costa County—the family preservation programs? I would be interested in knowing about that.

Mr. **Lepak**. What we have is a task force. That's the extent of what we have. We have no funds to deliver any services to families. So there are at least in the probation area, normally no attempts to keep families together.

The caseloads are so large that we spend all our time trying to get kids out of juvenile halls, where they are now in our county sometimes sleeping four in two-person rooms. We have 60 children locked in juvenile hall, for the only purpose of being housed until we can find them a placement.

We're so busy trying to get children out of locked facilities and into foster and group homes that we have no time left to work with families to try to keep children home, or to return children home who have already been placed.

Acting Chairman **Downey**. Tell us a little bit about the relationship between foster care and the probation department.

Mr. **Lepak**. Most of the children that the probation department supervises in foster care are essentially no different from foster care children supervised by social service departments—other than that they may have been caught for shoplifting, or, for some other reason, came to the attention of the probation department before they needed placement.

Also, there are many kids who are intentionally put into the criminal justice system merely to get a handle on them. "A handle on them" is usually the expression that the parents and the police use when they bring them to juvenile hall and probation.

Acting Chairman **Downey**. Is it realistic to assume that, given the level of rejection that a lot of these kids feel about their lives, being shuffled from house to house and placement facility to placement facility, that they're more likely to engage in behavior that would be——

Mr. **Lepak**. Oh, certainly, certainly. Probably typically, especially with girls, a girl will be in an intolerable situation, possibly where she's being abused or molested. She'll run away, and often they end up in the probation system for shoplifting cosmetics. Perhaps because the police don't want to charge them with shoplifting food, we usually get runaway girls for shoplifting cosmetics.

Then they become the responsibility of the probation department to place.

Acting Chairman **Downey**. What sort of sensitivity is there in the probation department that they have a young lady who has gone through a pretty tough life, and, though no one is condoning shoplifting certainly—I'm not—it's a little different from other types of crimes.

Do you sense that there is the requisite understanding at that level, that there's something else going on here that requires a further look and examination, other than just simply, "Well, OK, we've got a shoplifter, we're going to teach her."

Mr. **Lepak**. Well, I can only speak for the people that I work with in my placement unit. We are outraged on a daily basis that, due to the lack of services for mentally ill children in our State, due to the lack of services for chemically dependent children in our State, the probation department ends up being the service of last resort.

Acting Chairman **Downey**. It understands that. I assume that the probation department understands that.

Mr. **Lepak**. We understand that. We resent it, but we have no time to do anything about it, other than try to do what we possibly can for the child, and that is to get them into the best placement we can find for them, and usually that means the most expensive placement we can find for them, because that doesn't cost us anything.

There seems to be a bottomless pit of money from our perspective to put children into group homes, so we look for those that are well furnished, and have good recreation and treatment programs. Of course, those programs have waiting lists months long. So I usually don't feel like I'm even a child caseworker.

I feel like I'm a salesman of children, canvass group homes, trying to find the best prospects, and then sell them my county's children and services—convince them that I've got a better deal for them by taking our children, so I can somehow get our children past their 4- to 6-month waiting list and into the unusual program that will offer the services that that child needs.

Acting Chairman **Downey**. Ms. Fink, did you want to say something about the question? I thought you looked like you had something to say.

Ms. **Fink**. No, but I think that it has been pointed out that there are many gaps in the system's provision of services. Substance abusers is one. There are very few programs for substance abusers, and particularly substance abusers who are parents, and their children.

The greatest influx of cases that we've seen are babies born to drug addicted mothers. And, in fact now, over half of our caseload is composed of children under the age of 6, an extremely large percentage of whom have mothers who are substance abusers.

That and a whole range of other particular service needs, including family preservation projects, are a real need. It has been mentioned that such projects at the moment are simply model demonstration projects handling a handful of cases, such as the Seattle Homebuilders Project that is now being replicated in New York. It reaches only a handful of cases. What we really need is a real national, State and local commitment to make those kinds of programs the rule rather than the exception.

Acting Chairman **Downey**. Yes. Let's go over, if I can, your two recommendations to us to change the law.

The first is to take the word, "available," out of one of our requirements in the law, and by that you're suggesting that the States would then be forced into a position of finding places, or developing places, as opposed to living with the existing inventory. Is that——

Ms. **Fink**. Exactly. Too often they hide behind that word "available," and that, coupled with the fact that, at least under the current administration, Department of HHS active oversight has been extremely ineffectual, if existent at all. Deleting the word "available" would be quite helpful.

Acting Chairman DOWNEY. Yes, well, they're a lost cause. Let me address the second part of your recommendation, which was the ombudsman issue.

On its face this sounds like a terrific thing if the child actually has in the case—you could see somebody like Daryl or somebody like Boyd, who actually were articulate and could express their frustrations and anger being really helped by an ombudsman.

I'm a little concerned that the system that we attempted to lay out in 1980, if it worked, wouldn't require this. I mean, is that a fair assessment? Obviously we're not living in a perfect world, but we set up a judicial system to intervene in this process, so that we would not have children lost in a maze.

And what you're now suggesting is that, conceivably another layer of bureaucracy—and I don't mean to make it a pejorative here—but that's what we're going to have to deal with. We are talking about having to provide help where the existing maze and the existing levels of checks and balances have not.

Ms. FINK. Well, certainly if the existing law worked better, that would be an improvement.

However, what we're suggesting is not a major, added level of bureaucracy, but a rather small investment in people who would actually go out and talk to kids and check out first-hand the conditions under which they are living.

Unfortunately, all too often those 6-month reviews are administrative reviews, are perfunctory, and the children are not heard. In most places there is no mandate for anyone to talk to the children or represent them.

Acting Chairman DOWNEY. I like the idea, but I'm going to play devil's advocate with you for a minute.

What's wrong with the social worker, who has some responsibility for the child, taking a greater interest? What if we were to reduce the caseload, or provide the incentives for the reduction of caseloads, wouldn't it be the responsibility of the person who is dealing with the child to have some sense of where the child is?

I mean, what I'd like to know—and help me in this process—is how the child ombudsman is going to interface with all the other people that are supposedly responsible for this child? Why isn't it the responsibility of the department of social services to know where the child is, and to make sure that the child is being adequately cared for?

Ms. FINK. Indeed, the department of social services caseloads should be reduced, as Ms. Gallup stated. But again, they have competing interests to fulfill. Their duties are to a multitude of clients, if you will. Their primary client is their local State or local entity.

We are talking about setting up a system where the ombudsmen are beholden to the children. The children are their clients, and when they hear concerns from those children—or in terms of young children, when they observe things that might be improved—that person might be able to effect some remedial action within the State administrative and State existing bureaucratic structures, and it could occur outside the context of the 6-month review.

The review doesn't quite cover all the multitude of issues that children might raise in such cases. You heard from that young man from New York before—Boyd. Well, there have been judicial foster care review hearings, in court, not even just administrative, in New York for many, many years now. But his concerns, in each of the foster homes that he was transferred to, probably were never, never told to the judge or the agencies that were working with that case.

Acting Chairman DOWNEY. Well, you suggested that New York has an ombudsman.

Ms. FINK. Only for juvenile corrections, not for juveniles in foster care, who actually comprise the vast majority of children in care in New York. They cover the delinquency detention facilities and the State division for youth correctional facilities.

Acting Chairman DOWNEY. And they have that here in DC and in New York?

Ms. FINK. Well, in DC I believe they have a slightly different project, again covering only corrections, to my knowledge—that is, that the local public defender service has a small unit that visits children in the detention and the correctional facilities, and makes those in charge aware of problems.

The ombudsmen optimally, need to be, as is the case here in DC, independent of the agencies that they are overseeing, the agencies that they are monitoring.

Acting Chairman DOWNEY. Mr. Lepak, Ms. Gallop, what do you think of the ombudsman idea?

Mr. LEPAK. Well, I think it's absolutely necessary. I'm real fortunate to have an unusual supervisor in our placement unit. When I went to work there I asked him who we work for—do we work for the department or the community or whom—and he said we work for the kids. I had a whole lot of trouble after that.

So when I went out to Rites of Passage, one of the really astounding things to me was, I was certainly not the first probation officer who had ever been to Rites of Passage. And I thought that the abuses were so apparent, and were things that would be required to be reported under California State law, how, in 2 years, could I be the only person to have seen these abuses and reported them?

Kids learn really fast in the foster system to keep their mouths shut and to not say anything. The first time that they report some sort of abuse, it's usually their word against staff's word, so they're not always believed.

The second time they report something they have a history of being a troublemaker and reporting things, so they're probably not believed. And the third time they go and report something they'd better watch out, because they may end up in a placement where they're not going to be close enough to civilization to ever report abuses again.

So kids learn quickly that they don't get any remedies for reporting abuses, that they're not safe to report things, that they're better off keeping it to themselves.

Acting Chairman DOWNEY. Ms. Gallop?

Ms. GALLOP. Yes, I think it's a good idea, also. But I would caution us to be very careful about instituting something like that, unless we're really going to be committed to having something to back it up.

And by that I mean, if the person finds that the child has a problem, that the child needs a different placement or other service, the ombudsman would have to have available another placement for that child.

Otherwise, just having someone to believe the child, to know that the child is telling the truth, but have to face the child and say to the child truthfully, yes, I believe you, but I can't do anything about it. That would destroy the concept. It would cause the children only to have one more person in the system who says with words but cannot back it up with actions.

So while I think that it's a very good idea, I just know that in order for it to work that person is going to have to have some resources behind him.

Acting Chairman DOWNEY. You don't disagree with that, do you, Ms. Fink?

Ms. FINK. No, I couldn't agree more. One of the things we suggested is that that person have sufficient clout to be able to effect some remediation of the problem, and of course it relates back to our first concern which we share, about expanding the pool of available alternatives for children, so that they will be placed in the appropriate alternative.

Acting Chairman DOWNEY. All of you agree with the idea that paying the grandparents and other possible relations to help with foster care makes sense?

Ms. GALLOP. I agree that it makes sense, but that program has already started in New York City, and it has run into some problems very early.

Acting Chairman DOWNEY. Tell me, what are they?

Ms. GALLOP. We are quickly certifying those homes. We're doing the 24 hour certification, as we're supposed to, but we're not really able to service these foster parents, and that's equally as important as getting them that first check quickly.

The reason we cannot properly service them is the same reason that we can't do so many other things that we know need to be done, that our staff is willing to do, but they simply don't have enough time.

I cannot overemphasize how our staff shortage is shortchanging the children and the families that we service. We just don't have time to do anything except deal with a crisis. Our agency right now is just crisis after crisis after crisis.

The very important followup we don't have time to do. We work on cases that come in as emergencies, and we go out there, we make assessments, we visit—I'm happy to say that we do make face to face contacts on all of our cases. If we make the decision to remove, the child is removed. The case goes to court.

But if we don't see what we consider imminent danger, or the potential for imminent danger, then we leave the child in the home, and we hope we can get back to follow up.

Acting Chairman DOWNEY. Ms. Fink——

Ms. FINK. I think the fact that——

Acting Chairman **Downey**. Let me just ask you—the law does not expressly prohibit us from reimbursing grandparents and aunts and uncles, does it? It's just a question of interpretation?

Ms. **Fink**. No, and in fact, New York is starting to do that very thing, but the implementation problems that Ms. Gallop mentioned, and that I also alluded to in my testimony, in fact underscore the very need for Federal fiscal incentives to States and localities to institute such programs.

Clearly, if there were Federal fiscal incentives—a carrot, if you will—New York City might possibly deploy enough resources to really provide all of those services which are absolutely crucial for these kinds of programs to work.

Acting Chairman **Downey**. I just want to ask one question. I know that there are other members of the panel who want to ask questions, and I think again I'm going to play devil's advocate.

New York City—and Congressman Weiss is here—we have had in our State, I think, over the years, a very enlightened approach—or attempted to have an enlightened approach to the problems of our own citizens. Why do we have to pay—why should the Federal Government pay an incentive to the city to care for its own children in a more even-handed and effective way?

Why shouldn't the city do that anyway? Why shouldn't the city prioritize its expenditures in a way that it does more?

Ms. **Fink**. Certainly that is a question we all ask ourselves constantly, but the fact of the matter is that not only in New York City, but all over the country, it just is not happening.

We do not know whether it is simply a failure of commitment on the local level, or too many competing demands for resources, but we do believe that an infusion of both commitment, interest, and money on the Federal level would assist all the localities in doing this.

Acting Chairman **Downey**. Mr. Weiss.

Mr. **Weiss**. Thank you, Mr. Chairman. I am not sure that I understand the point that you made, Ms. Gallop, on the followup of the 24-hour certifications for kin. Isn't that the same problem that the department and agency faces with the placement in stranger foster homes?

Ms. **Gallop**. No. In the kinship foster home, the parent is being certified usually for the first time, while in already-certified foster homes the agency is already working with the foster family, which means that agency has a caseworker who visits on a regular basis, and has already spent time with this foster parent, and has probably given the foster parent training, and some education, given them a lot of advice about things that they can expect now that they have become a foster parent.

Mr. **Weiss**. But you are constantly looking for new foster homes anyhow, aren't you?

Ms. **Gallop**. Yes. We are.

Mr. **Weiss**. And whenever you find a new foster home, whether it is a kin or a stranger, you have to go through that same training process, right?

Ms. **Gallop**. No.

Mr. **Weiss**. Why not?

Ms. **Gallop**. In the kinship foster home, that is an emergency certification. In other words, the case may come to our attention today. We may find a child who is in imminent danger living with his natural parents. We may feel that it is necessary to remove the child from the home of the parent or the legal guardian.

We would have to take the case to family court. We would do that as soon as possible, hopefully tomorrow, and we would continue our investigation which hopefully would include our finding out that there is a relative who can take care of this child.

Our worker would then visit the relative, visit the home, have an indepth interview with everyone who lives in that household. We have a whole set of forms that we would fill out. All this is being done in one day, and if we got to court tomorrow, and the judge gave us a remand for the child, if our worker felt that the home met minimal requirements—there were no health hazards, or anything dangerous in the home, and the responsible adults in that home appeared capable of protecting the child, and giving the child the services that the child needs—we would certify that home immediately.

Now a more indepth study and certification would come later on, but there is a gap between the time we certify tomorrow, and the time somebody else gets out there, which might be 4 weeks or 8 weeks—I do not know how long it is taking them to go out there.

And in the meanwhile, here is a relative who 2 days ago probably had no idea they would be taking care of a niece or a nephew or a grandchild, and now they are.

It is a whole new world for them. They need someone that can be out there in the home, who can visit on a regular basis, and our caseworker who still has what we call planning responsibility for the case—it is our caseworker's responsibility to be out there, but our workers cannot visit as often, and stay as long as they want to, and know that they should, because another case will have come in for them. They will be out on the next emergency.

Mr. **Weiss**. How long has the kinship home program been in effect in New York?

Ms. **Gallop**. About a year.

Mr. **Weiss**. And have you been able to draw any conclusions since then as to how it seems to be working, separate and aside from the failure to have sufficient resources to do followup, as far as the relationship between the children and the adult in the home, the kin in the home?

Ms. **Gallop**. Oh, I would say that it is a much better system than having the children placed with strangers. I think in most of the cases the relative has proven to be a very good resource for the child.

Mr. **Weiss**. So that all things being equal, it is a preferable system than having a stranger be the foster parent?

Ms. **Gallop**. Yes. It is.

Mr. **Weiss**. Let me ask just one other question, and ask if, having heard the testimony that Ms. Lowry gave previously, and the testimony of your fellow panelists, do you share their view that recognizing that there is, indeed, a woeful lack of resources, that beyond the lack of resources, that there are problems within the system itself that ought to be corrected?

The duplication, the division, the separation of responsibilities among caseworkers, and so on. Do you see that as a problem also?

Ms. **Gallop**. Oh, yes. Yes. We see that all the time. The system itself is really in shambles. For example, when we talk about paperwork, we talk about the number of forms our workers have to fill out. The redundancy of these forms. The fact that they write the same information over and over and over again on one case.

We have children who are placed in facilities, they have to relate to one worker today, another worker tomorrow, another worker the following day. It is not helping the children. It is not helping the system. We have to have someone who can look at the overall system, and see the effects that this is having on the children, and have a combination worker, someone that the child can relate to at least for a period of time until they can go on to somebody else.

Mr. **Weiss**. Thank you very much. It has been really very solid and strong testimony. I am very appreciative. Thank you, Mr. Chairman.

Ms. **Gallop**. Thank you.

Chairman **Miller**. Mrs. Boggs.

Mrs. **Boggs**. Thank you, Mr. Chairman.

I thank you, and I am sorry that I had Appropriations Committee hearings that have kept me from being here all day, and I apologize for keeping you a little longer. But I feel very strongly about the family placement. I chair the Crisis Intervention Task Force of this committee, and I have often said that I assumed that I was given that assignment because I have eight grandchildren. I am accustomed to intervening in family crises. But I do feel that of course if there is a possibility of real family, kin family, of perhaps extended family, that it certainly is a preferable placement for a child.

I was wondering, however, as a child, are the parent, the foster kin parent, in danger of having the offending family member come in and threaten or actually hurt the child and/or the foster-kin parent?

Ms. **Gallop**. OK. Whenever you have a child placed, and the address of the placement is known to the natural parent, the potential for danger is always there.

Mrs. **Boggs**. That is right.

Ms. **Gallop**. But this is something that we discuss thoroughly with the relative who is going to provide care for the child. We explain to them that this is a possibility, that the natural parent might try to hurt you and/or the child, or may try to take the child away from you.

And before we can even do the initial certification, we have to feel that this relative knows the possibility and is prepared to act effectively and safely for the child's sake if this happens. So yes, it is a possibility.

Ms. **Fink**. In New York last year, our law was amended to entitle relatives to actually intervene in the family court proceedings that would involve those parents, so that if necessary they could obtain court relief, such as orders of protection which they could use if they were harassed in any way or if the children were harassed in any way by the parent.

Obviously, safety of the children is one of the concerns that has to be reviewed in allowing these placements. But there is another consideration, too—that is, that if you do have the child with a family member, there is perhaps a greater possibility of working constructively with the parent and the children, and the extended family to help resolve the problems without injury, harassment, child-snatching, or whatever.

Mrs. BOGGS. Thank you for very much for that addition, because as Mr. Lepak says, it is the child that we really have to think about, first and foremost. And I was wondering, Mr. Lepak, about this. In your testimony you talked about that the system has the children in inappropriate placements not designed to offer family counseling, psychiatric treatment, or chemical dependency services.

What are the health-care programs for children in foster care?

Mr. LEPAK. I am sorry. What are the health——

Mrs. BOGGS. In health-care programs, across the board, physical health, psychiatric health, and chemical-dependency health?

Mr. LEPAK. Well, most programs do not offer anything more than a child would normally get in the average home, and probably a lot less because only if the parents have the money to buy services will they get those specialized health services.

I think everybody agrees that foster children have many more problems, and more acute problems now than they did perhaps 10 years ago. That we have kids who need differentiated treatment services—very specialized services—but most placements are pretty traditional, and they are dealing with the foster child of 10 or 15 years ago who needed shelter, and not the psychiatric, sexual molest, or drug-treatment services that today's child needs.

Mrs. BOGGS. And I was very interested, Ms. Fink, in the fact so many of your children are the children of drug abusers, drug users, and I was wondering about the health care of those children, and I know that we are finding, statistically at least in New York, that one child out of every 48 black births, and one child out of 67 white births is suffering from the AIDS difficulties.

I wondered what your findings were among these young people that you have charge of who are drug offenders, drug users in most part. Are their children born with AIDS?

Ms. FINK. Unfortunately you are right. Your statistics are borne out in a very real problem existing in New York City which exacerbates the foster-care shortage in general, and that is the so-called border baby problem. Children who are born to drug-addicted mothers, and in particular, children who are born to HIV-positive mothers, find themselves stuck in hospitals even if they are healthy enough to be out in foster care.

And the very fact that they are stuck in hospitals means that they do not have the adequate nurturing and attention that children need to have adequate development. Not only does AIDS itself cause neurological and other developmental delays in many children, but the very absence of a nurturing and loving home with continuous caretakers also exacerbates that problem.

I think we must be very cognizant of the very special health care, psychiatric, and all kinds of other needs of this very large, ever-growing pool of babies born, not only in New York City, but in many locations across the country.

Mrs. Boggs. Thank you very much, and thank you, Mr. Chairman.

Chairman Miller. Thank you very much, and my apologies for running in and out of the room here several times. But I really want to thank you for your testimony. I think that it has graphically laid out for the committee some of the problems that are encountered at the hands-on level, if you will.

Let me see if I have got this straight—and I am asking the question so I can be corrected—you are really describing a system that is not in compliance with the perceived goal of the legislation. When you consider the indictment that was drawn up against the system in 1980, the legislation that followed, and the mandated requirements of IV-E, this system is simply not in compliance.

Is that accurate?

Ms. Fink. That is absolutely accurate. I think we are probably better off than we were back in 1980, but unfortunately, all too many of the provisions in Public Law 96-272 are simply in the realm of goals at the moment, and are not realities for many, many of the children.

Too often, some of the systemic aspects, as you have heard, involve perfunctory reviews of cases, failure to actually provide the reasonable efforts mandated, and so on.

I think you have heard another indictment of the system this morning, particularly the system in New York, and I believe we do, indeed, have a long way to go.

Chairman Miller. When we talk about the issues of health-care services raised by Mrs. Boggs—and, Dennis, you have raised this issue—would I be wrong, as a legislator, to look at this law, and be led to believe that that would take place at some point during these case reviews, is the appropriateness of that placement? Because as you point out, Dennis, this is not a system that is designed just to offer shelter. That is not what the law says.

And the appropriateness of the review. I would assume that if a troubled child is not getting services, not getting mental-health counseling, or health care, that that placement probably in fact is not appropriate. Am I——

Mr. Lepak. Well, of course, we are working with a population on probation that I guess was least touched by this law, and that is the older children, although in probation we work with kids sometimes 7 and 8, and the age of the kids we work with seems to be getting younger and younger all the time.

With all due respect, Congressman, I think the largest impact in our county——

Chairman Miller. But you are also getting kids diverted to your system, out of this foster care system, because they think you have got a better chance of getting the kids services.

Mr. Lepak. Sometimes the judges think that, that the kids will get better services in the criminal justice system than they will in the welfare system, so they support the transferring over for—oh, loud and rude noises I think was a charge——

Chairman Miller. Well, I had a judge in Los Angeles County tell me that—what is our favorite place in Nevada?

Mr. Lepak. Rite of Passage.

Chairman **Miller**. Rite of Passage. That he thought that it was preferable to no placement at all, and that was the decision when he could not find placement, and——

Mr. **Lepak**. I do not know if he asked the kids if they preferred it to——

Chairman **Miller**. Well, my point is this, that when we talk about—and I think the committee has got to be able to dissect this—when we talk about someone reviewing the appropriateness of the placement, we are talking about—or we should be thinking about—a composite of services and resources that are available for that family and that child.

Isn't that where we want to head?

Mr. **Lepak**. Certainly that is where we want to head. I think that the reviews now basically say this kid is still alive and breathing, and we know where he is, and that is pretty good, and let's get on to getting the next kid out of jail and into a group home.

The burden, by these caseloads cannot be overemphasized, on line workers. How are line workers—you know, I have got two teenagers. and worrying about my kids, if they are out past midnight is enough, but worrying about 60 kids is just impossible.

Chairman **Miller**. I understand that, and that may be where we find ourselves as members of the Congress who are outraged by what we see. We may be culpable because we do not provide the resources. But I do not think you can excuse the victimization of children because there are not enough workers, or that the system is overburdened.

But first, I need to know whether the system is out of compliance because nobody cares about the law, or if it is overburdened or what, before I know what the remedy is.

Mr. **Lepak**. There is just incidental compliance because the services that the children need do not exist, and there are not enough caseworkers to properly match the children to the appropriate services that do exist.

Chairman **Miller**. When we go through these so-called reviews of what the States are doing over the past 8 years, clearly—I guess it looks so gross, on its face, from viewing it—it is hard for me to believe that you would not find people out of compliance at the Federal level.

That you would not find that the States are not carrying out mandated services under title IV-E.

Mr. **Lepak**. You would not——

Chairman **Miller**. You could not help but find that the requirements of preplacement preventative services, of case review systems, of reunification, are not being delivered.

Mr. **Lepak**. On the plane out here I read a book that nobody had ever showed me before, prepared by the Youth Law Center and some other people, on the Federal law and how it should be implemented, and it is sadly amusing from our end because it speaks of things that are fantasy.

Family preservation, keeping children from being placed, and getting them back to their homes is the law, but there are no services to implement that law, so we do what we can, and take the children and place them. We cannot do anything to keep them with their families, and we can do very little to change that situation so they can return to their families.

We have no money for that, no services we can deliver. What we do have is somebody, other than our county picking up the tab for putting these children in foster and group homes. So that is what we do, and go on to the next case.

Chairman MILLER. But that becomes a substitute for services in many cases.

Mr. LEPAK. Absolutely. A very poor substitute.

Chairman MILLER. But in fact may be more expensive.

Mr. LEPAK. Certainly we need treatment-on-demand for drug-abusing parents and drug-abusing children. When somebody says, OK, don't take my child, I'll go into a treatment program, I'll do whatever you say—that person needs to have treatment delivered to them that day. They cannot be put on a 5-6 month waiting list.

Chairman MILLER. What are the chances of that person getting services?

Mr. LEPAK. Zero, without their own money.

Chairman MILLER. What about New York?

Ms. GALLOP. The same here. We have a long waiting list even for people who want to voluntarily go into detox programs. The waiting lists are so long that it is very discouraging.

Chairman MILLER. So for the parent that we hope we find, and that is the parent who says "I am willing to change my behavior", I am willing to shape up and fly right—for even that parent—forget the parent that will not play—for even that parent there are no resources readily available.

So the answer of the system to that parent is "you go on a waiting list?"

Ms. GALLOP. And in the meanwhile we will have to remove your child promptly.

Chairman MILLER. We will have to remove your child?

Ms. GALLOP. Yes.

Ms. FINK. Which is a far more costly alternative, obviously. Of course, if you miss the opportunity, when that parent is motivated to get help, you may be missing the opportunity completely because 6 months later when you call back and say, well, now we have a space for you, that parent may no longer be there, no longer interested.

Unfortunately, in all too many cases we find only paper compliance with Public Law 96-272.

Chairman MILLER. I am sure you do.

Ms. FINK. The little box checked off that reasonable efforts were made, but in terms of real services to real families——

Chairman MILLER. That is progress. The first panel this morning suggested we would find little boxes checked off where it said no compliance was made, and they went ahead and did it anyway, so——

Ms. FINK. That is right, and the forms were still ignored. That is true.

Mr. LEPAK. I think that is a very crucial point, too, because often, parents, especially single parents, are really resistant to having children removed from their home in the beginning, but sometimes, 6-9 months down the line, especially with adolescent children, they may have developed a whole new life style where that kid no longer fits in, and where it would have been fairly easy to deliver services and keep the child in the home, it then becomes very hard to change that situation and get them back. So you have got a child that you are going to keep in placement until they are 18 years old.

Chairman **Miller**. I am at a loss for words. A rare moment. Note this date. Well, thank you. We hope that as we proceed down this road, we can continue to call on you as resources, because at some point—and I have already been hammered by members of both committees, with "what are we going to do?"—that we have the luxury of coming back and talking with you about that. Because I think that some of the things that may need to be done here, very often, are not readily apparent to us at this level of policymaking to enable us to obtain the results that the three of you have been after for a good period of time.

So I would just hope that you will stay with us through this process. Thank you very much.

Ms. **Fink**. Thank you. We certainly will.

Ms. **Gallop**. Thank you.

Mr. **Lepak**. Thank you Mr. Chairman.

Chairman **Miller**. Thank you for your time and for your effort.

The next group will be made up of Georgia Vancza, who is the executive director of the Arizona Advocates for Children; Joan Graham, who is the chairperson of the Maryland Foster Care Citizen Review Board, accompanied by Charles Cooper; Cecilia Zalkind, who is the assistant director of the Association for Children of New Jersey; Carolyn Stitt, who is Nebraska Foster Care Citizen Review Board executive director; and Franny Maguire who is a program officer of the Delaware Foster Care Citizens Review Board.

We will take your testimony in the order in which I called your names, and your full testimony will be placed in the record. Again, to the extent to which you want to comment on something that you have heard previously, it would be appreciated by me. Georgia, welcome to the committee.

STATEMENT OF GEORGIA VANCZA, EXECUTIVE DIRECTOR, ARIZONA ADVOCATES FOR CHILDREN

Ms. **Vancza**. Thank you.

Chairman **Miller**. Stirring up trouble out there in Arizona?

Ms. **Vancza**. I am trying.

Chairman **Miller**. Not as much as your Governor was. But okay. Never mind. Next.

Ms. **Vancza**. We do not have enough time for that one.

Honorable chairman, and distinguished members of the committee, my name is Georgia Vancza, and I am the executive director of Arizona Advocates for Children.

Arizona Advocates is the oldest independent State-based, multiissued advocacy organization in the country. Because of our early history, we have a special interest, and some expertise in Public Law 96-272, and the programs and the children it impacts. Arizona Advocates was created by a family. The Robert T. Wilson Foundation put together this organization in 1968 to review the adoption laws, procedures and services for children in Arizona. The Wilsons had adopted several kids, and they were concerned about the cumbersome and lengthy process that they went through while hundreds of children were still waiting for permanent homes.

Their efforts of about 2 years resulted in substantive changes in Arizona statutes, the adoption process, and new resources were made available, including the first "Tuesday's Child" in the country. Also a child catalog of waiting children, and an interagency adoption committee, and all of those are still in operation today.

Systemic reform of the child welfare system is still a major priority for Arizona Advocates. Arizona is fortunate in that we have a large number of people who call themselves child advocates.

We are concerned about systems. We are concerned about children whose needs are not met by either the child welfare system, the health system, the education or the juvenile justice systems.

Over the last 20 years, Arizona Advocates has been providing leadership in the development of new resources in making systemic change.

We have in Arizona a foster care review board, a CASA program, which is the court-appointed special volunteer program.

We put together a program at Child Protective Services where there are more than 200 volunteers in the service-delivery system.

We created a private foundation for foster children. We helped establish the National Committee for the Prevention of Child Abuse in Arizona.

We funded a child advocate position, with private dollars, in the director's office of the department of economic security, to primarily look at adoption.

We facilitated the location of some special programs: the Casey Family Program, the Charlie Program. We have written legislation. We have helped to develop standards, standards for foster care. We participated in developing a training program for child protective services' workers.

Most of the resources that I have mentioned were developed before Public Law 96–272 came into being. In Arizona, Public Law 96–272 we really the glue, setting standards, providing the moneys, and defining accountability.

Arizona seemed to have a progressive child welfare system for its children. The foster care system, as you well know, is a part of the large child welfare system, child protective services, foster care, adoption, and the judicial system.

The children and families in need of these services have complex and multiproblem lives. Families struggle with the many issues that are symptoms of a society that has had massive and rapid economic changes in the last 40 years.

Members of the committee have been provided with a book on behalf of Arizona's children. In this book you will find some statistics that are somewhat startling, about Arizona kid. But you cannot look at the foster care system without looking at the other systems in place in the community.

Children whose basic needs are not being met are at greater risk of getting into the foster care system.

In fact, the existence of a foster care system speaks for the collective failure of the system to provide for these families and children.

At Arizona Advocates for Children, our measurement for success is 4 years old, 3 feet tall and has mud on her shoes. If you will take Maria by the hand for just a few minutes, we will have a quick tour of her State.

Arizona's children live in one of the fastest growing States in the United States. We are the sixth largest State by area. Three out of four of our kids live in either the Tucson or Phoenix areas, Maricopa County or Pima County. We have 1 million kids, and that represents about a third of our State's population. Thirty-six percent of our children are minorities; 23 percent are Hispanic, 8 percent are native American, and 3 percent are black. About 60,000 children live on Indian reservations in Arizona. There are 20 reservations there.

The population of Arizona has more than doubled from 1960 to 1980 from 1,300,000 to 2,700,000. We rank third in population growth although 10 people leave Arizona for every 13 who arrive.

Between 1975 and 1985, family structure in Arizona changed dramatically. Two-parent families increased by 61 percent, and at the same time single-parent families increased by 260 percent. In 1985, Arizona's divorce rate was 32 percent higher than the national average. More than 50 percent of women with children under the age of 3 are in the work force, and yet at the same time only 8.5 percent of our children eligible for child care services are receiving the subsidy.

Thousands of Arizona's children are home alone. Maria has a 6-year-old brother, Ted, who from time to time is responsible for watching her. Like Maria, many children throughout the State go to sleep at night without shelter, without food, without adequate clothing, and their health needs remain unmet.

The poorest children in America live in Arizona on Indian reservations where unemployment can run as high as 80 percent. In the Phoenix area, 25 percent of the child population lives in poverty, compared with 13 percent of adults and 9 percent of the elderly. Overall, children represent 48 percent of the total number of people living in poverty in Arizona.

Just last year, the number of homeless families increased, as it did across the Nation. In Phoenix, there was a 25-percent increase in the number of those families that were requesting emergency food. Twenty percent of those requests could not be met. There was no food.

While many of Maria's playmates sleep in cars, parks, and arroyos—that is something unique to Arizona—Maria herself has many times not had the shelter she has needed.

Arizona Advocates estimates that there are more than 1,000 children in the Phoenix and Tucson area that are homeless. We have 50,000 children who receive public assistance, aid to families with dependent children, and those children still live in abject poverty. The AFDC payment is $293 for a family of three. That is 47.2 of the 1983 standard of need. These same children would be less poor if they lived in any one of 30 other States.

In 1986, one in four babies in Arizona was born to an unmarried mother; one in three of those babies had a teen mother. Fourteen percent of these mothers had no prenatal care. One in four babies born to teen mothers has an older brother or sister. Maria has two older brothers at home. Her mother is 21.

Arizona is ranked 52d in spending for mental health services behind Puerto Rico and Guam. Arizona spends $12.06 for each person there compared to the national average of $34.62. Maria's family will wait 2 to 3 months to see a mental health counselor.

In Arizona, there are 152,696 children waiting for mental health services. The State of Arizona provided money for 9,585 of those kids. It will not surprise you to hear that our teen suicide rate is 70 percent higher than the national average.

In Arizona, we have 520 children with names in need of intensive treatment services, including psychiatric hospitalization. Tomorrow will be too late for some of these children. Many of these kids will have run away or be incarcerated. Kids that are locked up rarely receive the proper treatment and sometimes find themselves monitoring another youth's activities.

In Flagstaff last month, I visited a juvenile facility where I learned that three disturbed youth were monitoring a potentially suicidal teen because the detention center did not have professional staff available between 1 and 6 a.m. due to budgetary constraints. Recently, a Pima County 13-year-old committed suicide while in a detention center.

Parents. How is the state of parents? In the chronically mental ill population receiving treatment—and that is not many—10 percent have at least one child. Arizona children? Five thousand Arizona children have at least one parent who is incarcerated. Five percent of Arizona's kids will lose one parent because of death before they reach adulthood. Fifty percent of the people receiving alcohol and drug treatment have children.

Maria and her friends are clearly at greater risk of all kinds of serious problems, greater risk than the average American child. Maria is also at risk for abuse and neglect and a possible candidate for the foster care system.

Did I say that Arizona seems to have it all together? Remember all those resources that we have? Child protective service workers report an increase in the number of severely dysfunctional families entering the system and an increase in severity of abuse. Children cannot articulate the intense pain and frustration that violence within their family creates. Picture Maria as one of the 26,596 reports of suspected abuse. There is a one in three chance that no one will investigate her case.

In Pima County, in October of 1987, there were 568 reports. Last month there was 900 reports. The child welfare system is in real trouble, and many children live in pain and horror because the system will not respond. The system cannot respond because the child welfare system was not designed to work, and we keep trying to fix it.

The social service system of the 1970's was not primarily a crisis intervention system. And when the child protective service statute was passed throughout the country, the structure was not changed and modified sufficiently enough to deliver the kinds of services to family and children that we demand that it deliver. There has never been adequate funding to investigate the reports as defined by the child protective service statute and provide the necessary related services.

There is a lack of coordination on the State level. In Arizona, services are provided for children by four different State agencies.

As a result of some of these factors, administrators, managers and line staff are forced to make difficult, if not impossible, choices. It is not good guys versus bad guys.

Two major decisions have been made recently in our State that, while good management decisions, have had a terrible consequence on children. Both decisions are an attempt to better manage the diminishing resources. The establishment of a prioritization system—and you will find that as attachment A—is a public admission that some of these children's pain will never be responded to.

By the way, there are States across the Nation that are interested in replicating that prioritization system.

The other decision was not to investigate, or even to continue to count as reports, runaways, throwaways or mentally ill kids. These children, teenagers, represented one-third of the caseload at the time that decision was made. These children will not receive any services unless they commit a crime—which we are reluctant to advocate—or their parents file a petition declaring themselves to be unfit parents.

Both of these changes were mae without revising any statute or having any legislative oversight. The State agency made an informed choice not to serve thousands of children.

Arizona is not alone in this dilemma. This situation is an indication that the child welfare system has eroded in this country and, in fact, may be on the verge of collapse. When these changes are considered—and we look at the 1980 criteria for services—we might then conclude that, in reality, child protective services may be only investigating 20 to 30 percent of the reports.

The foster care system is greatly impacted by these changes. The families receiving services from CPS today are not the same families they were in the 1970's. Generally, they are more dysfunctional. So how do we evaluate the impact of Public Law 96-272 in 1988?

The passage of Public Law 96-272 greatly improved the lives of thousands of children—children who were kept out of foster care, children who were returned home or placing with loving, adoptive parents. The legislation was responsible for significant changes in the State systems. At the same time, Congress did not establish strong family policies and national standards that reflected a commitment to support vulnerable children that might be likely to get into the foster care system. At this time it makes good economical sense to prepare these children to become productive members of society.

While many improvements have been made, foster parents relay that many of the "old" problems continue—and you have heard that today—inadequate or no medical history, inadequate or no behavioral information when a child is placed, poor communication with workers, not being part of the decisionmaking process. Recently, several children with AIDS have been placed in foster homes in Arizona without the medical history having been shared with the foster families.

Workers report that they have too many cases and too few resources. Morale is low and concern is expressed about "going through the motions" with the biological parents rather than effecting long-term behavioral changes.

Once again, more children are going into foster care, staying longer and moving frequently. In 1987, 3,256 children were in care. Thirty-six percent of those had been in care for 30 months or longer, and 21 percent had been in five or more placements. This is particularly alarming because few teenagers entered the system in 1987. In comparison, in 1981, of course, there were fewer children, but 31 percent were in care for 30 months or longer; 22 percent were in five or more placements. So if Maria gets into the foster care system, she faces a dismal future, in spite of all our best efforts.

The intent of Public Law 96-272 is just not being met. Arizona Advocates recommends that Public Law 96-272 be strengthened by: developing an evaluation component that solicits information directly from the real experts—kids exiting the system, foster parents, adoptive parents and caseworkers; by developing standards and requiring a review of changes in child protective service policy or statutes impacting the foster care system; by increasing the appropriations level to reflect the more intense prevention and early intervention services needed for today's clients; by providing additional incentives for States in increasing their primary and secondary prevention efforts, including basic services.

One recommendation that is not listed in the written testimony that occurs to me while listening to many other good folks here today is to provide incentives for greater participation for volunteers in the service delivery system; to also look at setting standards for certain caseloads, or certainly providing incentives for States to maintain a certain level of cases per worker; and, lastly, to look at how we may key in on the decisionmaking process, that Public Law 96-272 really can be keyed to the decisionmaking process, rather than looking at whether kids are in care or out of care. If workers, foster parents and kids are participating in those decisions, the right outcome will happen. I would like to see some thought being given to how we could do that, evaluate the decisionmaking process in each State.

As concerned legislators, you can help establish good public policy for children by ensuring that Maria has enough to eat, a safe place to live, adequate health care, and an opportunity for an education. Policy and standards must be set at the national level that reflect a commitment to the Maria's in every State, regardless of where they are born. There will never be enough money to fully fund the foster care system if renewed emphasis is not placed soon on preventing the problems described here today by a number of people and providing timely, intense services to trouble families. Maria is waiting for her good life to begin.

Thank you.

[The statement of Ms. Vancza follows:]

TESTIMONY
OF
GEORGIA VANCZA
ARIZONA CHILD ADVOCATE

Honorable Chairman and Distinguished Members of the Committee My name is Georgia Vancza. I am the Executive Director of Arizona Advocates for Children. I appreciate the opportunity to review with you today the impact of PL 96-272 on the lives of thousands of Arizona's children.

Arizona Advocates for Children is the oldest state-based multi-issued advocacy organization in the nation. Because of our early history, we have a special interest and expertise in PL 96-272 and the programs it impacts. Arizona Advocates for Children was created by the Robert T. Wilson Foundation in 1968 to review adoption laws, procedures and services. Around that time, the Wilsons had adopted several children and were concerned about the cumbersome and lengthy process while hundreds of children continued to wait for a permanent family. The Wilsons' efforts resulted in substantive changes in the Arizona statutes and the adoption process and also made available new resources. The first "Tuesday's Child," a waiting child catalog and an Interagency Adoption Committee are examples of this early work that twenty years later still help children find permanent homes.

System reform of the child welfare system continues to be a major priority for Arizona Advocates for Children which also works on behalf of vulnerable, at-risk children within the health, education and juvenile justice systems. AAFC provided leadership for the development of the Foster Care Review Board, the Court Appointed Special Advocate (CASA) volunteers in Child Protective Services, private foundations for foster children, helped establish the National Committee for the Prevention of Child Abuse in Arizona, funded a child advocate position in the Director's office of the Department of Economic Security and facilitated the location of the nearly $1 million tax-free Casey Family Program which provides long-term foster family care to children. In addition, AAFC wrote legislation resulting in an adoption subsidy program mandating foster parent training and training for Child Protective Services workers.

Most of these resources were developed in the 1970s before the passage of PL 96-272. In Arizona, PL 96-272 was the "glue," setting standards, providing monies, defining accountability. Arizona seemed to have a progressive child welfare system for its children. Many Arizonans have worked hard at creating more resources, better management and more accountable systems and at redefining the roles of community and government. The foster care system is a part of the larger child welfare system, defined as Child Protective Services, foster care and adoption. The children and families in need of these services have complex and multi-problem lives. They struggle with many issues that are symptoms of a society that has had massive and rapid economic changes in the last 40 years.

You cannot look at the foster care system without looking at the other systems in place in the community. Children whose basic needs are not met are at greater risk. Families without adequate support systems are at greater risk. The existence of a foster care system speaks to a collective failure to provide for these families and their children.

At Arizona Advocates for Children, our measurement of success is four years old, three feet tall and has mud on her shoes. Take Maria by the hand for a quick tour of her state:

DEMOGRAPHICS:

* Arizona's children live in one of the fastest growing states in the U.S. Arizona is the 6th largest state by area.
* Three out of four children in Arizona reside in two urban areas.
* Arizona's one million children represent one-third of the state's total population. Thirty percent of the children are minorities; 23% of these are Hispanic, 8% are Native American and 3% are black.
* An estimated 60,000 children reside on the 20 Indian reservations located in Arizona.
* The population of Arizona more than doubled, rising from 1,300,000 to 2,718,000 persons between 1960 and 1980.

* Arizona ranked 3rd in population growth between 1975 and 1985, although 10 people left Arizona for every 13 who arrived.

FAMILY STRUCTURE:

* Between 1975 and 1985, family structure in Arizona changed dramatically. While two-parent families increased by 61%, single-parent families increased by 260%. In 1985, Arizona's divorce rate (7.5 per 1,000 population) was 32% higher than the national average.

* More than 50% of women with children under the age of three are working; two-thirds of women working are single parents or have husbands earning less than $15,000 a year. Yet only 8.5% of children eligible receive subsidized child care. Thousands of children are home alone. Maria' six-year old brother, Ted, watches her.

POVERTY:

* Like Maria, many children throughout the state go to sleep without shelter, without food, without adequate clothing and their health needs remain unmet.

* The poorest children in America live on the reservations in Arizona, where unemployment can run 80%.

* In the Phoenix area (Maricopa County), 25% of the child population lives in poverty compared to 13% of adults and 9% of the elderly. Overall, children represent 48% of the total number of people living in poverty.

* In 1987, the number of families requesting emergency food assistance increased by 25%. Twenty percent of these people remained hungry. There was no food!

* Many of Maria's playmates sleep in cars, parks and arroyos because enough shelter is not available. Arizona Advocates for Children estimates that more than 1000 children are homeless in Phoenix and Tucson.

* Fifty thousand Arizona children who receive public assistance, Aid to Families with Dependent Children, still live in abject poverty. The AFDC payment is $293 for a family of three. This is 47.2% of the 1983 standard of need. These same children would be less poor if they lived in any one of 30 other states.

TEEN PREGNANCY:

* In 1986, one in four babies in Arizona was born to an unmarried mother.

* One in three of those 15,600 babies has a teenage mother. Fourteen percent of these mothers received no prenatal care. Maria's mother thanked God that her baby was well.

* One in four babies born to teen mothers has an older brother or sister. Many of these young women drop out of high school because of pregnancy and child raising (14,00 girls in 1985). Maria has two older brothers at home.

MENTAL HEALTH:

* Arizona is ranked 52nd in spending for mental health, behind Puerto Rico and Guam. Arizona spends $12.06 per capita, compared to the national average of $34.62. Maria's family will wait 2-3 months to see a counselor at a mental health center.

* In Arizona, 151,696 children are estimated to be in need of mental health services. In 1986, Arizona provided money for 9,585 children to receive services. This abominable situation is a major factor in Arizona's teen suicide rate being 70% higher than the national average.

* In Arizona today, we know 520 children with names in need of intensive treatment services, including psychiatric hospitalization.

* Tomorrow will be too late for some of these children. Many of these kids will run away or be incarcerated. Juvenile Justice authorities report that approximately two-thirds of the children in their system are severely emotionally disturbed.

* Kids that are locked up rarely receive proper treatment and sometimes find themselves monitoring another youth's activities. In one case in northern Arizona, three disturbed youth were monitoring a potentially suicidal teen because the Flagstaff juvenile detention center did not have professional staff available between 1:00-6:00 a.m. due to budget constraints. Recently, a Pima County thirteen-year old hung himself in a detention center.

* Of the chronically mentally ill adults receiving treatment from the Arizona Department of Health Services, 10% have at least one child. Maria's aunt Teresa sometimes forgets to feed her baby.

* More than 5,000 Arizona children have a parent who is incarcerated.

* Before they reach adulthood, five percent of Arizona's kids will lose one parent because of death.

Maria and her friends are clearly at greater risk of all kinds of serious problems than the average American child. Maria is also at risk for abuse and neglect.

Did I say that we (Arizona) seem to have it all together?

Child Protective Service workers report an increase in the number of severely dysfunctional families entering the system and an increase in the severity of abuse. Children cannot articulate the intense pain and frustration that violence within their family creates. Picture Maria as one of the 26,595 reports of suspected abuse. There is a one in three chance that no one would investigate her "case." In one county, reports escalated from 568 in October, 1987, to 900 in March, 1988. The child welfare system is in real trouble, and many children live in pain and horror because the system will not respond. The system cannot respond because:

1) the Child Protective Services System was not "designed" to work; the social service system of 1970 was not primarily a crisis intervention system;

2) there has never been adequate funding to investigate the reports as defined by the CPS statute and provide the necessary related services;

3) there is a lack of coordination at the state level; existing services for children are provided by four different state agencies.

As a result of the above-named factors, administrators, managers and line staff are forced to make difficult, if not impossible, choices regarding which child will wait. Will it be Maria?

Two major decisions have been made in Arizona in the last four years, that, while "good" management decisions, have a terrible consequence to children. Both decisions are an attempt to better manage the diminishing resources. The establishment of a prioritization system (see attachment A) is a public admission that some children's pain will never be responded to.

The other decision was not to investigate (or even to count as reports) runaways, throwaways or mentally ill children. These children -- teenagers -- represented one-third of the caseloads of that time. These children will not receive services unless they commit a crime or their parents file a petition declaring themselves unfit parents.

Both of these changes were made without revising any statutes or having legislative oversight. The state agency made an informed choice not to serve thousands of children. Arizona is not alone in this dilemma; this situation is a clear indication of the erosion of the child welfare system, and we may be close to its collapse. When these changes are considered, it may be that by the 1980 criteria, Child Protective Services is investigating 20-30% of the reports.

The foster care system is greatly impacted by these changes. The families receiving services from CPS today are not the same as in the 1970s. Generally, they are more dysfunctional. How do we evaluate the impact of PL 96-272 in 1988?

The passage of PL 96-272 improved the lives of thousands of children -- children who were kept out of the foster care system or who were returned home, or placed with loving, adoptive families. This legislation was responsible for significant changes in the state systems. At the same time, Congress must establish strong family policies and national standards that reflect a commitment to support our vulnerable children. It makes economical sense to prepare these children to become productive members of society.

While many improvements have been made, foster parents relay that many of the "old" problems continue -- inadequate or no medical care, behavioral information, poor communication with workers and not being part of the decision-making process. Several children with AIDS have recently been placed in homes without the medical history being shared with the foster families.

Workers report that they have too many cases and too few resources. Morale is low and concern is expressed about "going through the motions" with the biological parents rather than effecting long term behavioral changes.

Once again, more children are going into foster care, staying longer and moving frequently. In 1987 3,256 children were in care. Thirty six percent of those children have been in foster care for 30 months or longer and 21% have been in 5 or more placements. This is particularly alarming because few teenagers entered the system in 1987. In comparison, during 1981 there were 2,554 children in care and 31% were in care for 30 months or longer; 11% were in 5 or more placements. If Marie gets into foster care she faces a dismal future, in spite of all of our best efforts.

Arizona Advocates for Children recommends that PL 96-272 be strengthened by:
1) developing an evaluation component that solicits information directly from the experts; foster parents, adoptive parents, caseworkers, older children exiting the system;
2) developing standards and requiring a review of changes in CPS policy or statutes impacting the foster care system;
3) increasing the appropriations level to reflect the more intense "prevention" and early intervention services needed for today's clients;
4) providing additional incentives for states in increasing their primary and secondary prevention efforts.

We would also urge that a national independent review of the child welfare system be conducted.

As concerned legislators, you can help establish good public policy for children by insuring that Maria has enough to eat, a safe place to live, adequate health care and an opportunity for an education. Policy and standards must be established at the national level that reflect a commitment to the Maria's in every state, regardless of where she is born. There will never be enough money to fully fund the foster care system if renewed emphasis is not placed soon on preventing the problems described today and providing timely, intense services to troubled families. Maria's waiting for her good life to begin.

I HAVE A DREAM

That one day all creatures will be equal and at peace with each other.

That man will use his power to journey to the stars and not use it to annihilate himself.

That man will use his knowledge of science to journey into space and let people live longer, to defeat cancer, and not to use it to destroy nature, other people, and the Universe.

That one day everyone and everything will be happy and loved.

That cruelness and wars will be forgotten and that love and peace will be remembered.

That all things good and bad will live in harmony.

Adrian
Carrillo School, Tucson, AZ.
6th Grade

Attachment A

A caseworker's guideline for deciding which children will wait...

Prioritization of Action for Investigation of Reports of Alleged Abuse, Neglect, Dependency, or Exploitation

Priority 1—Life Threatening and/or Emergency Situation

Respond immediately, but no later than two hours.

Example: Severely physically abused children with observable injuries or symptoms thereof.

Priority 2—Dangerous But Not Life Threatening

Respond promptly, but no later than 48 hours.

Example: Children who are both sexually abused, and the parent, guardian, or custodian is unable to provide for the child's protection.

Priority 3—Substandard Child Care That is Damaging

Respond promptly, but no later than two working days.

Example: Children under 11 years of age, or children who appear to be developmentally disabled and who are inadequately supervised.

Priority 4—Substandard/Inadequate Care That Can Become Damaging

Respond promptly, but no later than one work week.

Example: High risk situations with multiple stress factors and/or history of child maltreatment.

Source:
Arizona Department of Economic Security;
Arizona Supreme Court Foster Care Review Board

appendix A

ARIZONA PLACEMENTS OF CHILDREN IN FOSTER CARE

	1981		1987	
Current Placement	No.	%	No.	%
Home	317	12.2	302	9.3
Relative	365	14.1	503	15.4
Family Foster Home	1,312	50.5	1,821	55.9
Non-Lic/Non-Rel Home	21	0.8	10	0.3
Group Home	110	4.2	147	4.5
Residential Placement	190	7.3	129	4.0
Mental Hospital	9	0.3	9	0.3
DDD Institution	44	1.7	23	0.7
Adoptive	196	7.6	161	4.9
Runaway			40	1.2
Shelter			29	0.9
Detention			9	0.3
Other	33	1.3	73	2.2
	2,597	100.0%	3,256	100.0%

appendix B

OBJECTIVES FOR CHILDREN IN CARE

Objective	1981 No.	%
RTP/RWP	676	26.9
Relative Placement	250	10.0
Non-Rel/Non-Adopt Pl	22	0.9
Adoption	619	24.7
Short-term foster care	49	2.0
Long-term foster care	747	29.7
Independent Living	67	2.7
Dismissal	48	1.9
Other	33	1.3
	2,511	100.0%

Objective	1987 No.	%
Return to parent	878	27.0
Remain with parent	315	9.7
Adoptive Placement	836	25.7
(Foster parent)	(327)	
(Relative)	(77)	
(Non-fost/non-rel)	(8)	
(Guardianship)	(37)	
(Unspecified)	(387)	
Long-term foster care	1,158	35.5
(Foster home or inst)	(594)	
(Rel. placement)	(289)	
(Other)	(14)	
(Unspecified)	(261)	
Independent Living	24	0.7
Other	33	1.0
No established plan	12	0.4
	3,256	100.0%

appendix C

AGE FOR CHILDREN IN CARE

Age	1981		1987	
	No.	%	No.	%
0-2	232	9.1	433	13.3
3-5	353	13.8	531	16.3
6-8	334	13.1	504	15.5
9-11	358	14.0	442	13.6
12-14	468	18.3	526	16.1
15-18	809	31.7	820	25.2
	======	======	======	======
	2,554	100.0%	3,256	100.0%

appendix D

MONTHS OUT OF HOME FOR CHILDREN IN CARE

Months out of home	1981		1987	
	No.	%	No.	%
0-5	168	6.5	264	8.1
6-11	493	19.1	543	16.7
12-17	391	15.1	490	15.0
18-23	268	10.4	425	13.1
24-29	223	8.6	368	11.3
30-35	177	6.8	295	9.1
36-41	126	4.9	203	6.2
42-47	97	3.8	145	4.4
48+	644	24.9	523	16.1
	======	======	======	=======
	2,587	100.0%	3,256	100.0%

appendix E

NUMBER OF PLACEMENTS FOR CHILDREN IN CARE

Number of placements	1981		1987	
	No.	%	No.	%
1	1,069	41.3	1,088	33.4
2	731	28.2	701	21.5
3	358	13.8	497	15.3
4	155	6.0	294	9.0
5	90	3.5	168	5.2
6	46	1.8	135	4.1
7+	141	5.4	373	11.5
	======	======	======	=======
	2,590	100.0%	3,256	100.0%

The
CHARLEE
Program

Children Have All Rights:
Legal, Educational, Emotional

April 11, 1988

Georgia Vancza
Executive Director
Arizona Advocates for Children
4439 East Broadway Blvd.
Suite 212
Tucson, AZ 85711

Dear Georgia:

Congratulations on being selected for testify before the U.S. Congress! On behalf of Arizona CHARLEE Family Care and The Menninger Foundation, thank you for allowing this opportunity for written input.

The topics I would like to address are the disintegration of the American family and the consequent impact on public Child Protective Services and foster care. Foster children are society's castoffs...they are too young to work and support themselves; they are too young to protect themselves physically, emotionally, and legally; they are too young to vote for political effect; and they do not have families that are concerned about their welfare to advocate for the basic necessities all human beings need.

It may be useful to qualify the following statements by noting that Arizona CHARLEE Family Care is one of the largest private providers of children's services in Arizona. These services include: shelter, group homes, in-home family assistance, independent living case management, and severance writing. As a charter member of The Menninger Foundation Youth Program, Arizona CHARLEE is involved nationally with several other youth services organizations. The internationally recognized leadership and dedication to superior quality of care provided by The Menninger Foundation is the cornerstone of all programs in CHARLEE.

In the past five (5) years in Arizona there has been an unprecedented increase in referrals to Child Protective Services (CPS); some estimates indicate as much as a 400% increase. CHARLEE can testify to this fact because the services we provide are almost exclusively for this population. There has been much said about the validity of such

Arizona CHARLEE Family Care, Inc.
347 East 4th Street • P.O. Box 41565 • Tucson, AZ 85717-1565 • 602/620-6085
A Member of the Menninger Foundation Family Care Network

statistics and the nature of reporting, the implication being that the statistics are skewed for various reasons. The statistics are not the issue, the fact is that there are forces operating on American families that impact their functioning negatively. Furthermore, the social service systems designed to assist families and/or dependent children are simply not geared to meet the current needs. The forces operating on families are social problems that have significant historical and economic roots. The problem with the social service delivery system is that the funding appropriated is focused on providing "reactive services" rather than "proactive services."

Family Disintegration

The fact is that mass communication has made the immediate access to all kinds of new information possible not only for adults, but for children. Children do not have the emotional maturity, nor a well developed logical intellect to integrate this vast increase in information. For example, in the same afternoon a child can watch the latest rock video on "M-TV" and a live broadcast of a national tragedy, such as a terrorist assassination or the crash of the Challenger.

This immediate input of information creates situations that the vast majority of parents are untrained and unprepared to handle. Furthermore, the mobility of the American family has often led to frequent relocation, resulting in a lack of social relationships that would normally provide a neighborhood identity. The increasing need for families to have two (2) income earners has resulted in more children being placed in daycare: with the effect being more children being raised by surrogate parents out of their own neighborhood.

The point is not that mass communication, geographic mobility, and daycare are evil processes. The point is that they are only a few of the realities that Americans live with in modern society. These realities have appeared so quickly that the American family has not had time to evolve in a manner that allows it to cope effectively with the changes. When CPS is examined from this perspective, it is no wonder that there have been astronomical increases in the number of cases.

The Social Service Delivery System

The notion that services are referral driven, that a problem in the family must exist for services to be delivered, is an axiom of all social service systems. When the discussion concerns Child, Youth, and Family service departments, the vast majority of resources go to out of home foster care. There may also be some primary intervention efforts made by way of educational opportunities for families. In this context, out of home foster care is at the end of the spectrum of intervention for working with families.

Out of home foster care is a tertiary intervention. It is expensive, it is frequently ineffective, and it often damages the very children it was intended to protect. It may sound odd for a large residential service provider such as CHARLEE to say, but it is time to develop (and fund) better alternatives to out of home foster care. There will always be a number of children that must be removed from their natural parents care to protect their lives and adequate legislation has been provided at the federal level (96-242) to provide for the needs of these children. But, it appears that the majority of children would be far better off avoiding the pitfalls of the typical foster care system.

There are two alternatives; upgrade an already expensive and questionably efficient foster care system, or learn how to teach families to live together in a more constructive manner that is cost efficient. Intervening with families before children are placed out of home is clearly preferable and proactive in comparison to out of home foster care. In order for this to occur, there must be a funding impetus that not only continues to provide the current level of funding for out of home foster care, but that also begins to give incentive for keeping children with their natural parents while meaningful intervention services are provided. Meaningful intervention does not mean an ambiguous "counseling" approach with troubled families. It means a return to social work in the home of the family having problems. This involves sending highly trained paraprofessionals (making the entire process more cost effective) to teach and monitor families in the business of being "family."

In closing, there are many pressing needs to be considered when examining the American family today. However, I believe we must begin to find safe ways to slow the flow of children into foster care. Children are our future... our concern for that future is best illustrated by trying to preserve the integrity of natural family environments in which the children can grow and flourish.

Again, thank you for the opportunity to present my thoughts. Please accept my best wishes for a constructive visit to Washington.

Sincerely,

Shaun T McBride

Shaun T. McBride
Executive Director

Comstock Children's Foundation, Inc.
2030 East Broadway, Suite 222
Tucson, 85719
(602) 624-2088

4-11-88

Arizona Advocates for Children
ATTENTION: Georgia Vancza
4439 E. Broadway, Suite 212
Tucson, Arizona 85711

Dear Georgia,

Thank you for expressing interest in Comstock Children's Foundation. As you requested, we are including information about the program of services we offer to Tucson's children.

Comstock is the "LAST RESORT" for any child in our community who requires health treatment which the family cannot afford and when other agencies cannot help. Examples of help provided in 1987 are: more than 278 children have been able to get necessary medicines, 62 young people are wearing braces to correct severely malformed teeth, and 19 babies subject to Sudden Infant Death Syndrome were provided with life supporting heart monitors. Other services provided include critical dental surgery, wheelchair, car seat, eye exams and glasses, and prenatal care for pregnant teenagers.

Comstock has never received Government aid. It depends on community donations. Because there is an endowment fund which yields enough for the small administrative costs, 100% of all contributions go for direct services of children.

Please let us know if there is any other information you'd like. We appreciate your consideration.

Sincerely,

Comstock Children's Foundation

Judith S. Jordan

Judith S. Jordan
Executive Director

JSJ/ve
Enclosures

Smiles for our community's children

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COMSTOCK CHILDREN'S FOUNDATION, INC.

FACT SHEET

Purpose of Program

Comstock Children's Foundation, Inc. is a Tucson organization that offers assistance to children requiring health treatment when no other agency can help.

Comstock helps children in need receive medications, orthodontia and special health needs such as heart monitors, medical supplies, wheelchairs, or even help with travel if a child needs treatment not available here in Tucson.

Comstock provides financial assistance, counseling and advocacy, and refers to other resources if help can be found elsewhere.

Staff

There is one full-time employee, Judith S. Jordan. She does all client counseling, referrals and interviews, often at the home. There is a committee on the Board of Directors that consults with her on decisions of financial aid and other problems. There is a part-time secretary. All other people associated with Comstock are volunteers.

Guidelines for Aid

Children - birth to 18 years.
Referrals are made from clinics, hospitals, social service agencies, school personnel, public health nurses, parents or others. Families receiving welfare or Government assistance are eligible if the care the child needs is not provided for through these programs. Other families are also eligible after assessment that the family cannot afford the full cost of the health treatment required. In most instances, families pay part of the costs. Doctors, medical suppliers and pharmacies offer discounts.

Priority is given to Pima County, and 98% of all aid given is to residents of Pima County.

History

Comstock Children's Foundation was formed when the Comstock Children's Hospital closed in 1966.

Funds

The investment fund, established from the sale of the Hospital, yields enough interest to cover administrative costs.

United Way / Government

Comstock is not part of United Way and receives no Government funding.

Approved by the Fund Raising Review Board

LA FRONTERA CENTER

"Mental Health Needs of Children are Ever Increasing in Arizona" is, at present, a true sentiment and it is a historical statement Arizona ranked 50th in the nation in its care of its only natural resource — its children. The more we continue to fail in prioritizing young children and their rights to a safe, stable, and predictable childhood, the more we allow and contribute to the increased numbers of young children with serious mental health problems. Today we are seeing an increase in the following problem areas of preschool-age children:

Maladaptive behaviors
School-related problems
Learning disabilities
Lack of problem-solving skills
Inability to make meaningful friendships
Increase in suicide threats, attempts, and successess
Increase in aggressive/destructive behaviors
Increase in the need to medicate young children

An alarming aspect of the increase in mental health problems rests in the reality that more and more preschool-age children are manifesting depression, extreme aggression which results in being kicked out of day cares and preschools, and threats of suicide. Problem children left without support, intervention, and treatment ultimately become adults who are unable to lead functioning, meaningful lives and who repeat the same cycle in their own families.

There is a growing body of research which now indicates a direct relationship between what happens in a child's early life and the probability of severe emotional problems later in childhood and adulthood. Problems manifested in infancy and early childhood which are left unattended are, often, first identified by a teacher once the child reaches public school. Research also indicates that parents are more motivated to address family issues and individual dysfunction when their child is a young age than they are once the child passes age six or seven. The observable emotional and behavioral problems of elementary age and older children invariably have their origins in the child's earlier life. Public schools are in the throes of great frustration in their inability to support resistant parents in seeking help for their children. Consequently, mental health problems are left untreated and they get worse.

The proactive solution to the mental health needs of young children rests in early intervention and prevention. Factors in the life of a young child which contribute to this needs are:

(1) A mother who, due to illness, chemical abuse, her own maladaptive behavior, is unable to appropriately bond and nurture her child.

(2) Multiple separations from the mother as primary caretaker.

(3) Parental mental illness.

(4) Parental/family domestic violence.

(5) Parental chemical abuse.

(6) Medical neglect.

(7) Physical and/or sexual abuse.

(8) Emotional abuse and neglect.

(8) Multiple moves and homelessness.

(10) Foster care.

Parenting is the most important role in our society. Our social future rests in effective and nurturing parenting; yet, parenting is the one task we are the least prepared to fulfill. Prioritizing prevention and early intervention for young at-risk children is not just a "good idea" --- it is mandatory. Arizona's at-risk children need child development and parenting skills training for their families, preferrably in the home. They need more eary assessment, therapeutic day treatment and play therapy.

Seventy percent (70%) of preschoolers receiving mental health services are in foster care. Specialized training for therapeutic foster homes is imperative in meeting bonding, nurturing and treatment needs of seriously emotionally disturbed preschoolers. As long as foster parents remain without needed training, they continue to be a stumbling block in any child's treatment because a child cannot be treated in a vacuum ---the care giver must play an integral role in meeting mental health needs.

jf
(04/08/88)

2509 E. Fillmore Street ✱ Phoenix, Arizona 85008 ✱ Office (602) 275-0555 ✱ Crisis Line (800) 352-0528

Based on recent reports, over TWO-MILLION children are reportedly injured and neglected each year in the United States. In Arizona there were 24,866 cases of child abuse/neglect in 1985, involving an estimated 52,214 children.

Parents Anonymous is a successful approach toward resolving this growing problem. P.A. is a self-help organization which provides prevention, early intervention and treatment services for parents with an actual or potential child abuse/neglect problem; or for parents experiencing stress in their lives. Parents meet weekly in self-help groups with the assistance of trained professional volunteers. Through the group process, parents work to help each other prevent and heal damaging relationships within the family.

Founded in 1970 by Jolly K., an abusive parent, Parents Anonymous has grown from a few local groups in California to over 1,500 groups world-wide. In October 1980, to support and encourage future program growth in Arizona, P.A. opened a statewide resource office in Phoenix. The following services/goals have been developed:

. . . P.A. groups currently meet in 12 Arizona Counties, and on five Indian Reservations.

. . . P.A. serves the entire state of Arizona with a 24-hour toll-free CRISIS LINE for parents in crisis, or experiencing stress within the family.

. . . Since July 1982 a prevention program for Native American families has been developed in Maricopa County, utilizing the self-help group and Indian parent-aides to meet the unique cultural needs of the urban Indian parents. The P.A. groups are also being developed on reservations throughout Arizona, utilizing Native American staff and volunteers.

. . . A Family Support Service program in Maricopa County operates, with referrals from the Department of Economic Security. The Family Support Specialist serves as a therapeutic friend and role model to the abusive parent, provides emotional support and assists the family to link with appropriate community resources.

. . . P.A. offers the Nurturing Program in many Arizona communities, to help increase the parenting and nurturing skills of parents and their children.

. . . P.A. provides educational programs to civic, parent and professional groups statewide.

. . . Other unique services include children's treatment programs, teen self-help groups, and Spanish-speaking P.A. groups in different locations statewide.

. . . A quarterly Newsletter reaches over 1,500 people, providing updated information on P.A., educational articles, resources, etc.

. . . Regional offices have been opened in Tucson, Flagstaff and Kingman to develop the P.A. services at a local level.

Parents Anonymous is a private non-profit organization which utilizes volunteers and in-kind donations to provide the majority of its services. For more information please contact the local P.A. office nearest you or call our toll-free Crisis Line at 1-800-352-0528.

FAMILY LIFELINE PARENTS ANONYMOUS OF AZ.

DAILY SUN

Friday, February 5, 1988

Thought this
might be of
interest to you
Georgia CH

Juvenile hall wrestles with budget woes

BY STEVE RYAN
Sun Staff Reporter

Leaving the Coconino County Juvenile Detention facility staffed only by two sleeping "houseparents" during an early-morning shift compromises safety of locked-up children, while using federal and private-sector sources to feed the kids without using county funds underscores questions about budgetary priorities, says a children's rights advocate.

"We can wait until there is a suicide or a death if one kid becomes violent toward another and deal with it then, or admit now that reasonable staffing must be provided," says Georgia Vancza, executive director of Arizona Advocates for Children.

"There are legitimate budgetary constraints, but it seems to me that the county is really liable," Vancza said.

Concerns center on the county's decision to not staff the detention center with officers on active duty between the hours of 1 and 6 a.m. daily, said Vancza.

The facility is supervised during those hours only by a retired man and his wife who are sleeping in an apartment within the detention center, Vancza said.

Failure to actively patrol the facility during the five early-morning hours compromises safety of children in custody in the 24-bed center, Vancza said.

Generally, children are detained in the facility because they are believed to have run away from their homes, committed crimes or been labeled incorrigible.

Safety of the children and the county's liability exposure both would be enhanced by stationing active-duty detention officers at the facility around the clock — if the county could afford it, says Stephen M. Crnkovich, chief juvenile probation officer.

"It is a liability exposure we are well aware of and we are attempting to find a way to address that difficulty," said Crnkovich, whose duties include supervision of the detention center.

"House parents," usually a married couple retired from other occupations, receive training identical to persons hired as detention officers, noted Crnkovich. The couples, who usually have raised families of their own, are intended to provide a more home-like environment for detained children, whose ages range from 8 to 18, he said.

Detention officials maximize security with limited resources, noted Crnkovich.

For example, lock-up cells in the facility are equipped with microphones and speakers which allow detention workers to constantly monitor sounds inside cells and to communicate with detainees to check on their welfare, said Crnkovich.

Children determined to have sexual or behavioral problems — as well as smaller children who would be vulnerable to attack — are locked in isolation rather than in cells occupied by between four and five detainees, he said.

Detention workers also carry button-activated alarms which can communicate distress signals if they are attacked by a detainee, he said.

"It would be better to have at least one male detention officer or detention officers of both sexes here at all times."

However, fiscal constraints require the detention center to make due with scant funds that are available.

About $65,000 was earmarked for

See JUVENILE,
Page 2

JUVENILE

CONTINUED FROM PAGE 1

salaries of juvenile-detention employees this year, an allocation essentially unchanged from three years ago, said Crnkovich.

During those three years, however, the average number of persons detained in the facility each day has risen from 10.6 to 17.7, Crnkovich said. The number of children detained at the center rose from 1,036 in fiscal 1984 to 1,323 in fiscal 1987, he said.

The juvenile detention center is not the only county department coping with budgetary constraints, said Crnkovich. For example, the county jail now is housing 190 inmates, about 40 more than its capacity, he noted.

Vancza agrees that Coconino County — and other rural counties — are expected to negotiate tight budgetary straits.

"They are struggling with very difficult decisions. There are no bad guys here," said Vancza, noting that cutbacks and restraints from state funding sources are crimping rural counties.

"Our goal is to try to get everyone refocused here. There is a pretty high-risk factor there now."

Questions about priorities the county places on detained children are underscored by the decision to fulfil its obligation to feed detained children without using any county funds, said Vancza.

There is no question that the children are being fed adequate and nutritious meals, said Vancza.

However, the county procures food from sources including local stores and bakeries whose shelf-life is dated and federal commodity programs, Vancza said.

The county is reducing expenditures on its detention facility by accepting dated items which local stores otherwise might donate to private-sector charities, Vancza said.

The Safeway grocery store at 1201 S. Plaza Way is among donors of dated goods to the detention facility.

"The reason we donate dated food is that, if we didn't, who is going to do it?" asked Donaldson. "If I didn't feel driven to support this, I would probably give my extra stuff to the other organizations" which are established within the private-sector solely for charity, he said.

However, Donaldson said the real issue is whether the county is fulfilling its obligations to take care of persons it detains.

"When the county is supporting private-interest things like the Museum of Northern Arizona and the Festival of the Arts, they should be supporting things for basic human needs," he said.

"I can't sit idly by and watch this happen. It would be beyond my conscience if someone dies in the jail or detention facility and we don't do anything about it."

Coconino County Manager Cathy Eden said today that the county's Board of Supervisors is charged with the difficult responsibility of using limited resources to fund numerous worthy programs.

The county contributes about $100,000 to outside organizations which administer not only cultural programs, such as the festival, but human services, such as help for battered women, said Eden.,

"There are pressing needs that the county takes very seriously," Eden said.

"We think the detention center is a very safe facility," Eden said.

Crnkovich said that the Probation Department's decision to utilize other available food sources is an attempt to alleviate the fiscal constraints that are creating problems related to staffing and other matters.

Receipt of dated foods from private businesses is appreciated, but not necessary to feed detained children, said Eden, noting that donating the items to private charities is commendable.

County Probation Officer Mary Lynn Reagan, whose duties include food acquisition for the detention facility, said that dated foods from private sources are only one source.

Most of the food is received from federal subsidies from the Department of Education's school-lunch program, surplus cheese and other surplus commodities administered through the federal governemnt and meat administered by the Game and Fish Deparment as a result of illegal game kills, she said.

Use by public agencies of surplus foods from both the private and public sectors is widespread and is an innovative strategy for coping with the complex problem of limited funds, says Rex Herron, administrator of juvenile-justice programs for the Governor's Office for Children.

"I had lobster thermidore at the state prison because an airline donated 6,000 pounds of frozen dinners they couldn't serve," said Herron.

ion, Saturday, February 13, 1988 The Arizona Daily Star

Photos by Elizabeth Mangelsdorf, The Arizona Daily Star

Helping the children — Supervisor David Yetman listens to a presentation on the mental health needs of children by Joanne Landdeck-Sisco, executive director of Casa de los Ninos. The hearing yesterday was held in the Pima County Courts Building.

Parents, pros urge state mental health system for children

By Margo Hernandez
The Arizona Daily Star

Elected officials heard some surprising stories yesterday about the state's mental health treatment system for children, which one group called among the worst in the country.

About 65 parents, mental health professionals and educators told the panel of county supervisors, city council members and state legislators that they have no place to turn when children cannot be helped by a system that offers limited services.

The seven panel members learned that one private treatment facility in Phoenix charges $12,000 a month for the in-patient care of a teen-ager. Her father, Ed Checkley of Phoenix, said he does not know how he will provide the 24-hour supervision his daughter needs when insurance benefits run out in 12 to 18 months.

Jesse McClure, co-chairman of the task force and dean of Arizona State University's school of social work, said the horror stories the panel was hearing were the same his task force has heard for two years.

Checkley said he has been told that one of the ways to provide for his daughter and her twin, who also needs help, is to move to a state with more adequate care.

The hearing was sponsored by Arizona Advocates for Children, the Arizona Community Foundation and the Tucson Community Foundation. The purpose was to create support for a bill in the Legislature that would establish a comprehensive children's mental health system to provide services from prevention to hospitalization.

The legislation is the recommendation of the Arizona Task Force on Child Mental Health, which studied the issue for the past two years. Jesse McClure, co-chairman of the task force and dean of Arizona State University's school of social work, said the horror stories the panel was hearing were the same his task force has heard for two years.

"We don't have a system," McClure said. He told them that in Arizona, agencies react only when a problem becomes severe rather than in preventing it.

Arizona Advocates for Children said Arizona ranks 50th in spending for children's mental health services. The group did not provide any amounts.

John and Pamela Haggard of Tucson said they don't know what they will do with their 17-year-old son when he is released from the Catalina Mountain Juvenile Institution this summer.

They said the boy has an IQ of about 73. They said they have tried several treatment facilities.

"We still have a problem. Our son has a problem. He's still not getting the help he needs," John Haggard said.

They said that as far as they know, the institution does not have an adaptive education program. And, their insurance for any hospitalization treatment programs has expired.

"We're at the point where we're running out of time," said Pamela Haggard, meaning that their son will soon be an adult.

Diane Barber of Mesa said that as a single parent with a manic-depressive child, "you have no life." Barber is chairwoman of MI KID, (mentally ill kids in distress) a parent-advocate group in Phoenix.

He is hospitalized in a Phoenix facility. But when he is released soon, Barber won't have a place for him after school.

"The school systems ignore the issue," she said

Arizona last in mental care for its children

Tucson Citizen 2/13/88

By ROBERT C. McCORMICK
Citizen Staff Writer

Arizona ranks 50th in the nation on mental-health spending for children — right next to Puerto Rico.

Families of children with severe mental problems often have nowhere to turn.

That was the harsh message received yesterday by representatives of the state Legislature, Pima County Board of Supervisors and Tucson City Council during a public hearing on children's mental health services in Arizona.

Two children's mental-health bills are pending in the Arizona House of Representatives. Reps. Cindy Resnick and Reid Ewing, both Tucson Democrats who are helping write the bills, participated in yesterday's hearing.

Sam Lena, Iris O. Dewhirst and David A. Yetman represented the Pima County Board of Supervisors and Roy B. Laos and Janet Marcus represented the Tucson City Council at the three-hour hearing.

Several parents told panel members how they had tried for years to get mental-health services for their children and were forced to conclude that unless one of their children "hurt or murdered someone, we would never get any assistance from any agencies in Arizona."

Pat Maloney, a single parent with two teen-age sons, said she is paying $12,000 a month to keep one son in a private residential-care facility, because there is no state facility where he can receive treatment.

"He is now 12 and my health insurance covering him will run out when he is 14. What am I going to do when that time comes?"

Other parents testified that they were paying similar fees for private residential treatment for their children and the fees didn't include expensive medication and therapy administered in the facilities. One couple said they were forced into bankruptcy and now their health insurance might be canceled.

Jesse McClure, dean of the School of Social Work at Arizona State University, said he has heard many similar reports since he was appointed by then-Gov. Bruce Babbitt to head the Children's Mental Health Task Force two years ago.

"Arizona's lack of a policy relating to children with emotional problems is hurting them and all the unfortunate families trying to deal with these children. These families are forced to resort to beating them, locking them up, or moving to California where they can get adequate treatment for their children," McClure added.

Arizona has one of the highest rates of child abuse in the nation, he said, because parents can't cope with these children. He cited these
figures from Arizona Advocates fo
Children:

- The rate of teen-age suicide i
Arizona is 70 percent higher tha
the national average.

- A total of 4,978 troubled ch
dren ran away from home in T
son and Phoenix in 1984 and
number is increasing every year

- More than 1,000 childre
Tucson and Phoenix are homel

- More than 26,500 suspe
cases of child abuse were repo
statewide in fiscal year 1986
only 60 percent were probed.

"We estimate that 150,000
dren in this state are in nee
mental-health services," McC
said.

He said that one bill will
date an Arizona Behavior H
Council for Children, and the
will establish a children's me
health system in the state.

"These are mind-boggling
lems," Resnick said. "We (le
tors) need all the input we c
from parents of these childre
we can enact adequate legislat
deal with them." She urged al
ents and groups dealing with
dren's mental-health issues
tend the first hearing on the bi
8:30 a.m. Feb. 23.

Saturday, February 13, 1988

JUVENILE

CONTINUED FROM PAGE 1

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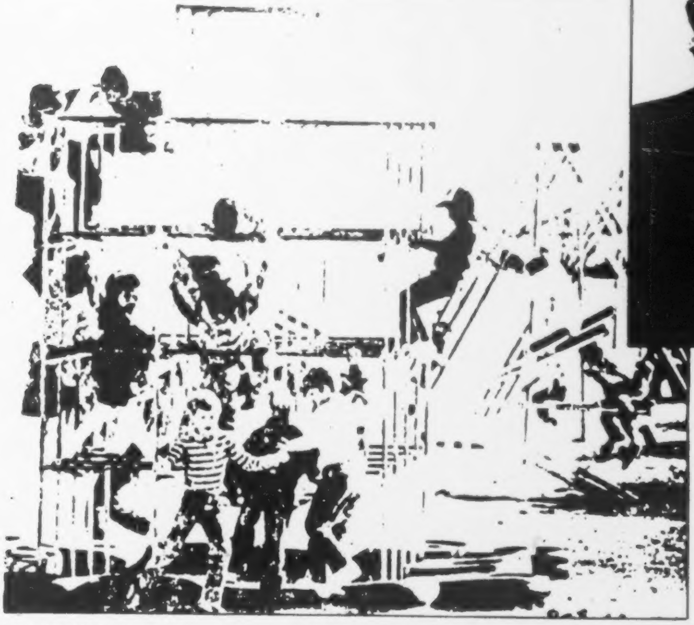
Sierra Vista Herald

Sierra Vista Herald and Bisbee Review, Sunday, January 17, 1988

ocal, state groups aim o wipe out child abuse



Staff photos by Bruce N. Bern

KIDS ARE PEOPLE, TOO: Georgia Vancza, director of Arizona Advocates for Children, which may soon formally team up with Sierra Vista's Multi-Disciplinary Team on Child Abuse.

BRODIE FARQUHAR
Staff Writer

A formal connection may be in the cards between the locally based Multi-Disciplinary Team On Child Abuse and Arizona Advocates For Children.

The potential connection arose at a meeting of MDT, which invited AAFC executive director Georgia Vancza to speak earlier this week.

Vancza said she was impressed by the energy of MDT, and by its progress in establishing a case management approach to child abuse cases.

"Arizona Advocates For Children is the oldest state-based advocacy group in the country," Vancza said, describing AAFC as a community-based organization that can "ask the tough questions" and get citizens involved in framing public policy — both at a state and national level.

That ties in closely with the newly approved mission statement for the MDT:

"The Sierra Vista Multi-Disciplinary Team (MDT) is a network of professionals concerned with child abuse in our community. Our primary goal is to effect a positive change in this explosive problem through education and intervention.

"We believe all children have the right to grow into adulthood unburdened by the trauma and scars of neglect and/or abuse — physical, emotional and sexual.

"Our mission involves the continuous education of ourselves, the general public, children, and families at risk — regarding prevention, early detection and access to community resources. Attention will be directed to high risk environments and population groups.

"Further, our mission is to foster a cooperative atmosphere where coordinated case management can be facilitated for the benefit of the clients and the agencies involved."

A case review team, composed of professionals with clearance for confidential files, has been proposed with the following membership: a law enforement officer, legal representation from the Attorney General's or County Attorney's office, a psychologist, juvenile court officer, physician, social worker, school nurse and staff from the Department of Economic Security.

Vancza said that AAFC's biggest task in 1988 "will be to make sure that the budget deficit doesn't get fixed on the backs of kids" in the upcoming session of the Arizona Legislature.

In the 1988 session, Vancza predicted it will be easy for children issues to get lost in the shuffle. With attention focused on the deficit and Gov. Mecham's troubles, "it will be difficult to focus attention on children," Vancza said.

Under the theory that the squeaky wheel gets the grease, Vancza plans to squeak loud and long in 1988, through a series of hearings and conferences. In February, the Arizona Legislature will hold a public hearing on children's issues in Tucson.

In late March, a Congressional hearing on children issues will be held in Phoenix, while in September, the National Conference on Children will meet in Tucson. All three gatherings will be coordinated by the AAFC.

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Chairman **Miller**. Thank you.

Joan Graham.

STATEMENT OF JOAN GRAHAM, CHAIRPERSON, MARYLAND FOSTER CARE REVIEW BOARD, ACCOMPANIED BY CHARLES R. COOPER, ASSISTANT ADMINISTRATOR

Ms. **Graham**. I am Joan Graham, and I am chairperson for the Maryland Foster Care Review Board. The Foster Care Review Boards in Maryland have provided leadership in measuring permanence. As time passes, we are able to make more accurate and more sensitive measurements.

Length of stay in placement has been measured as high as 4½ years in Baltimore City but is projected to decline to 19 months.

Acceptance of specific Foster Care Review Board management recommendations has led to progress, even in more difficult cases, and especially in Baltimore City where we assisted in the creation of a management information system.

Three-quarters of children leaving foster care are returned to parents, placed with relatives, or adopted. Outcomes are clearly based on permanency planning. The population of children in foster care has been cut in half, even though the intake is rising. The number of children in foster care more than two years has declined even more drastically. Protective services complaints have risen slightly faster than foster care intake from 12,000 to over 21,000 per year.

Foster Care Review Board data collection revealed shocking delays in the adoption process in Maryland. Ten bills were passed in 1987 to expedite the process; 18 months have been shaved from the delays, and more progress is expected.

There still are serious problems that threaten the interests of vulnerable children. Reentries into placement seem to be on the rise, especially in Baltimore City where 23 percent of children entering had been in foster care before. Causes of this phenomenon need further study.

The shortage of suitable placement resources is a daily crisis. Children are experiencing numerous and inappropriate placements. Many new approaches have been tried, such as more recruitment, specialized foster homes, technical aid to group providers, and substantial rate hikes. Federal assistance in developing and testing new types of placements is sorely needed.

Children enter care with severe special needs: emotional consequences of abuse and neglect; babies with AIDS or HIV positive. Teens with AIDS may be seen in foster care in the next few years.

Availability and coordination of mental health services for foster children are improving in Maryland; however, resources are nowhere near adequate.

Serious staffing problems exist, especially in Baltimore City and Prince George's County. Caseworkers are overwhelmed—multiplying accountability mechanisms and the constant need to replace children consume a lot of their time. Excessive paperwork steals time from helping children and families. Serious turnover problems exist. In Baltimore City, 50 percent of the city caseworkers have been on the job less than 1 year. Poor physical working conditions often contribute to worker exodus. While training has improved, new workers handle cases too soon. The Federal Government should require and fund adequate training and professional education.

Citizen review boards provide accountability and advocacy. The citizen review provides thorough, objective case and program oversight: community support and recognition for good management; aggressive followup of poor management; a channel for the communication of issues and concerns to foster care executives and judges. We expedite corrective action when a pattern of policy violations is spotted. At case review, we collect important information about permanency planning and service. This is done via a vehicle that we use called a barrier sheet that identifies where the barriers are, what the problems are.

State and local system monitoring and evaluation are other benefits of citizen review. We conduct formal evaluations of State and local programs each year. We provide wide promulgation of annual reports to lawmakers, the legal community, scholars, journalists, and the child welfare community. Pressure on State and local agencies for complete and accurate reporting of case data comes from our volunteers. We track implementation of new programs and policies.

We follow up the recommendations in our annual reports with action to effectuate them. We meet with State and local executives, advisory boards, the legislature and county councils. We have lobbied for much-needed caseworker resources in foster care, protective services and intensive family services. We now have about 15 percent more caseworkers than we did when the population was double. We also lobbied to have social workers' salaries raised 15 percent—beyond the normal cost-of-living increase—over a 2-year period. We have participated in two major rounds of reforming the adoption laws in Maryland. In 1982, we successfully lobbied the governor to provide funds for legal representation for each foster child. After three years of effort, our recommendations for initial training for every new caseworker and management training for every supervisor have finally been implemented. In 1985, we supported the initiation of a foster care prevention program—Intensive Family Services is what it is called—which is a model for the Nation. Without this program, foster care intake and pressure on placement resources would be even greater.

We have provided hundreds of hours of technical assistance to Baltimore City and to the State Social Services Administration in the area of information management.

Our message is not a simple one. Good and bad trends coexist, such as reduced lengths of stay and the rising number of reentries. Public Law 96-272 has set important standards and has been a source of funding, especially in the area of permanency planning.

In answer to the earlier question raised about an ombudsman, at our review boards we invite the foster parent as well as any child who is age 10 or over. Sometimes children come who are even younger. And, of course, they express their opinions. They are allowed to speak with whomever they choose. If they want to speak with the entire panel, which consists of five to seven citizens, they can do so. But if they elect to speak with only one or two of us, they can do that. And we can ask them the questions that way. We suggest that perhaps that be mandated.

Now, Federal aid should keep its focus on permanent homes for children and should also focus on: the placement crisis and the need for mental health services; the staffing crisis and the need for education, training and adequate pay levels and working conditions.

The national foster care and adoption data bases can provide important support for our efforts to evaluate foster care services. Implementation should include auditing for accuracy and completeness. Assistance should be provided to States to help them conform while they use new technologies to ease the paperwork burden on caseworkers. The Federal Government should provide a clearing house to enable technology transfer. Federal grants could stimulate curriculum development in information management and program evaluation.

More Federal support is needed for child welfare. States need help in dealing with serious problems of family breakdown and social decay. Citizen review systems are hard at work to make that available resources go as far as possible in children's best interests.

That ends my testimony. I would at this time request that our assistant here, Charlie Cooper, be allowed to give you some explanation of the graphs and charts that have been included in your booklets.

Chairman **MILLER**. All right. Mr. Cooper.

Mr. **COOPER**. Thank you. My name is Charles Cooper, and I am the assistant administrator on the staff of the Foster Care Review Boards.

It is good to be from a State where Public Law 96-272 can certainly be shown to have had some positive impact. While we have serious problems in front of us, we can actually see what progress has been made.

The first chart is entitled "Projected and Actual Average Length of Stay in Placement Statewide," and the dark line shows that, based on the rate at which children are leaving care, starting in 1983 they would have been expected to stay about two years. This has declined to 19 months.

The lighter line above that indicates that when you look at children who are actually leaving care, you have some children who spent 18 and 20 years in care, and they were brought into care before Public Law 96-272. Therefore, the average length of stay for children leaving care is much higher, but it has declined from over 3 years to just over 2.5 years. And it will decline further if we keep the pressure on for permanency planning.

The next chart indicates that in Baltimore City, the decline is more dramatic. The actual average length of stay in Baltimore City was up over 4½ years, and it has declined to a little bit over 3 years. And it is projected to decline to 19 months.

The next chart is the percentage of children remaining in placement 6 months. We see that in the State of Maryland, when we started measuring this indicator in 1985, over 50 percent of the children were staying placement at least 6 months. This has declined to 45 percent.

In Baltimore City, fewer children stay as long as 6 months, so they are returning children home very early on. The vast majority of children, 60-some percent of children leave placement in the first 6 months.

The next chart is perhaps the most significant one. It indicates the length of stay for children who have spent 6 months in care. What we found when we started measuring this is that if a child does not get home very soon—and there are many studies that indicate this—then it is very, very difficult to achieve permanent placement. Of course, those are just precisely the cases that come before Citizen Review Boards because the requirement is to review children who have been in care 6 months.

Back in 1984 we started measuring this indicator for Baltimore City, and it seemed as though these children would stay 4 years. This has declined to a little bit over 3 years. Baltimore City, as some of you may know, has been sued by the Legal Aid Society in Maryland. The provision of an attorney for every child, which is one of the things that the Citizen Review Board has advocated for, has enabled the Legal Aid Society to have the resources to file this lawsuit to enforce provisions of Public Law 96-272 and to work on the safety of children. And while the Baltimore City Department of Social Services has been beset by this lawsuit, where they have been under pressure to make the placements more safe, the Citizen Review Boards have been continuing to say: You still have to do permanency planning; you cannot forget about permanency planning because you are having trouble with placement resources. And so, even for these difficult children, we have seen an improvement.

The next chart shows the placement outcomes for children in Maryland. These are the percentages of children leaving care. Back in 1985, 44 percent returned to parents, 11 percent relatives, 15 percent adoptions, 16 percent age or independence. A total of about 70 percent have the three desired outcomes of return to parents, relatives, or adoption. By 1987, that had increased to 75 percent, and a lot more children going home.

The next chart is case outcomes for children receiving citizen review. Since these children have been in care 6 months or more, it is more difficult to get a positive outcome for them. But, still, well over 60 percent have return to parents, relatives, or adoption.

The next charts really sum up the situation. You see the number of children in foster care in Maryland which back in 1978 was estimated at 8,700. We did not really have a count of the children. It has declined until 1985 and since then it is level at 4,300. But the dotted line shows the percentage of children in care 2 years or more. It was the goal of the legislation to reduce the number of children in care two years or more, and that number continues to fall. So we are still making progress in keeping children out of long-term foster care. At the same time, the dark line at the bottom shows that the number of children entering placement has increased. So while more children come into the system, they are not staying as long, and the population is level.

In Baltimore City, it is more dramatic. The population continues to decline from 3,700 to about 1,950. The number of children in care longer than two years declines even faster, from about 2,700 or 2,800 to about 1,200. And the population entering placement has increased more rapidly. It went from 500 to 1,200 each year.

So the city is dealing with this onslaught of children, and there are problems in this. All the problems you heard about placement resources are true; all the problems you heard about overnight stays are true in Baltimore City. But at the same time, and largely through citizen review, we have been able to do something about this permanence.

One of the ways we do this is by providing them with lists of children who plans have been pending a long time. In our computer, we are able to orgranize the children by how long they have had a certain plan; for example, a plan of return home was set up such-and-such a date. We began in about 1984 or 1985 to send them a list of those cases with plans that were a year or 18 months old, and say through each case review but to send top management a list do something about these cases. They have, indeed, conducted their own internal reviews in addition to the citizen reviews and started to do something about these cases.

Then later we were able to essentially turn over a copy of our computer files to them, and they have been able to do quite a bit with that in developing their own lists and monitoring indicators.

We have a chart of the number of protective services complaints, but it really is just like what you have heard here today. I will not spend too much time on that.

The next chart is called progress in the adoption process caused by citizen monitoring. We started to notice back in 1983 that when adoption was made the plan, it just took forever to get these children actually adopted. The legal process was very daunting, and caseworkers were always saying: We do not have time to go through all the legal procedures. Finally, in 1986, we were ready to keep computerized records of all the steps in the adoption process. At every review we say to the caseworkers: When did you file the petition? When did you do each step?

What we found after doing this for several months is that based on the reviews conducted from February to July of 1986, it was taking 73 months to get a child through the foster care system and into an adoptive placement. Now that we have been monitoring this process for months, we have changes in the law, and we have been bothering foster care managers about the need to improve this thing. In a year-and-a-half, we have about a 17-month improvement in this time, and we still have some of the original children that are counted in the later average. They are raising that average. It is going to drop probably at least another year-and-a-half. We would like to see it drop more.

So this shows how measuring things and monitoring and continuing to feed back this information to foster care managers makes a difference.

The next chart is reentry into foster care. It shows about 18 percent of children who entered foster care in Maryland in Federal fiscal year 1987 had been in foster care before. We do not have good historical data on this, but it looks like this phenomenon is increasing. And we need to start paying a lot of attention to that.

The last chart is about instability of living arrangements for foster children. After some of the testimony here, it does not sound as dramatic as it should—although we do have children in Maryland with 30 and 40 placements. But what we have here is that the number of children with at least three different living arrangements was 54 percent of the children for whom we could measure that statistic; and the number of children with at least four different living arrangements was 34 percent. That is 2,000 out of about 6,000 children.

That is too many. If we are going to remove a child from his home, we should be able to put him somewhere until they can return. We need Federal help with placement resources.

[The statement and attachments follow:]

TESTIMONY BEFORE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON WAYS AND MEANS SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT INSURANCE

April 13, 1988

Presented By:

Joan Graham
State Board Chairperson
Maryland Foster Care Review Board

Charles R. Cooper
Assistant Administrator
Maryland Foster Care Review Board

PROGRESS TOWARD PERMANANCE IN MARYLAND'S FOSTER CARE PROGRAM

A. The Foster Care Review Boards (FCRB) have provided leadership in measuring permanence. As time passes we are able to make more accurate and more sensitive measurements.

B. Length of stay in placement has been measured as high as 4-1/2 years in Baltimore City, but is projected to decline to 19 months.

C. Acceptance of specific FCRB management recommendations has led to progress.

  1. Even in more difficult cases.

  2. Especially in Baltimore City where we assisted in creation of a management information system.

D. Three-quarters of children leaving foster care are returned to parents, placed with relatives, or adopted.

E. Outcomes are clearly based on permanency planning.

F. The population of children in foster care has been cut in half, even though intake is rising.

  1. The number of children in foster care more than two years has declined even more drastically.

  2. Protective services complaints have risen slightly faster than foster care intake from 12,000 to over 21,000 per year.

G. FCRB data collection revealed shocking delays in the adoption process.

  1. Ten bills were passed in 1987 to expedite the process.

  2. Eighteen months have been shaved from the delays and more progress is expected.

SERIOUS PROBLEMS CONTINUE TO THREATEN THE INTERESTS OF VULNERABLE CHILDREN

A. Re-entries into placement seem to be on the rise.

  1. Especially in Baltimore City where 23% of children re-entering had been in foster care before.

  2. Causes of this phenomenon need further study.

B. Shortage of suitable placement resources is a daily crisis.

  1. Children are experiencing numerous and inappropriate placements.

2. Many new approaches have been tried -- more recruitment, specialized foster homes, technical aid to group providers, substantial rate hikes.

3. Federal assistance in developing and testing new types of placements is sorely needed.

C. Children enter care with severe special needs.

1. Emotional consequences of abuse and neglect.

2. Babies with AIDS or HIV positive. Teens with AIDS are expected.

D. Availability and coordination of mental health services for foster children are improving, however, resources are nowhere near adequate.

E. Serious staffing problems exist, especially in Baltimore City and Prince George's County.

1. Caseworkers are overwhelmed -- multiplying accountability mechanisms and constant need to re-place children consume time.

2. Excessive paperwork steals time from helping children and families.

3. Serious turnover problems exist -- 50% of City caseworkers have less than one year on the job.

4. Poor physical working conditions often contribute to worker exodus.

5. While training has improved, new workers handle cases too soon. "Police academy" approach should be tried. Federal government should require and fund adequate training and professional education.

CITIZEN REVIEW PROVIDES ACCOUNTABILITY AND ADVOCACY

A. Citizen review provides thorough, objective case and program oversight.

1. Community support and recognition for good management.

2. Aggressive follow-up of poor management.

3. A channel for the communication of issues and concerns to foster care executives and judges. We expedite corrective action when a pattern of policy violations is spotted.

4. At case review, we collect important information about permanency planning and services.

B. State and local system monitoring and evaluation.

1. We conduct formal evaluations of state and local programs each year.

2. Wide promulgation of annual reports to lawmakers, legal community, scholars, journalists, and the child welfare community.

3. Pressure on state and local agencies for complete and accurate reporting of case data.

4. Follow-up of implementation of new programs and policies.

C. We follow up the recommendations in our annual reports with action to effectuate them.

1. We meet with state and local executives, advisory boards, the legislature and county councils.

2. We have lobbied for much-needed caseworker resources in foster care, protective services and intensive family services. We now have about 15% more caseworkers than we did when the population was double.

3. We also lobbied to have social workers' salaries raised 15% over a two-year period.

4. We have participated in two major rounds of reforming the adoption laws in Maryland.

5. In 1982 we successfully lobbied the Governor to provide funds for legal representation for each foster child.

6. After three years of effort our recommendations for initial training for every new caseworker and management training for every supervisor have been implemented.

7. In 1985, we supported the initiation of a foster care prevention program (Intensive Family Services) which is a model for the nation. Without this program, foster care intake and pressure on placement resources would be even greater.

E. We have provided hundreds of hours of technical assistance to Baltimore City and to the State Social Services Administration in the area of information management.

OUR MESSAGE IS NOT A SIMPLE ONE

A. Good and bad trends coexist, such as reduced lengths of stay and the rising number of re-entries.

B. Public Law 96-272 has set important standards and has been a source of funding, especially in the area of permanency planning.

C. Now federal aid should keep its focus on permanent homes for children and should also focus on:

   1. The placement crisis and the need for mental health services.

   2. The staffing crisis and the need for education, training and adequate pay levels and working conditions.

D. The national foster care and adoption databases can provide important support for our efforts to evaluate foster care services.

   1. Implementation should include auditing for accuracy and completeness.

   2. Assistance should be provided to states to help them conform while they use new technologies to ease the paperwork burden on caseworkers.

   3. Federal government should provide clearinghouse to enable technology transfer.

   4. Federal grants could stimulate curriculum development in information management and program evaluation.

E. More federal support is needed for child welfare. States need help in dealing with serious problems of family breakdown and social decay. Citizen review systems are hard at work to make sure that available resources go as far as possible in children's best interests.

PROGRESS IN THE ADOPTION PROCESS CAUSED BY CITIZEN MONITORING

Average Number of Months to Complete Steps of Adoption Process

		FEB.-JULY 1986	JULY-DEC. 1987
STEP 1	Establish Goal of Adoption	30	23
STEP 2	File Petition	19	14
STEP 3	Termination of Parental Rights by Court	6	6
STEP 4	Adoptive Placement	18	13
	Average Time in Foster Care before Adoptive Placement	73 Months	56 Months

AGE COMPARISON

	April 81	Sept. 86	Sept. 87*
0-1 year	4%	9%	11%
2-4 years	8%	13%	12%
5-11 years	28%	24%	25%
12-17 years	46%	37%	37%
> 18 years	14%	16%	15%
	100%	99%	100%

*Placement pop.-others are total Foster care pop.

AGE OF CHILDREN ENTERING PLACEMENT

	1981	10/86 - 9/87
0-1 year	18%	24%
2-4 years	13%	17%
5-11 years	24%	30%
12-17 years	45%	29%
TOTAL	2713	

RE-ENTRY INTO FOSTER CARE

Number of Prior Episodes for Children Entering Placement

FY 1987

NUMBER OF PRIOR EPISODES	NUMBER OF CHILDREN	PERCENT OF CHILDREN
0	2197	81%
1	416	15%
2	75	3%
>3	11	---
TOTAL	2713	

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INSTABILITY OF LIVING ARRANGEMENTS FOR FOSTER CHILDREN

	# of Children	% of Children
Total Number in Placement during FY '87	7061	---
Number of children for whom the number of living arrangements is known	5869	100%
Number of children with *at least* three (3) different living arrangements	3160	54%
Number of children with at least four (4) different living arrangements	1999	34%

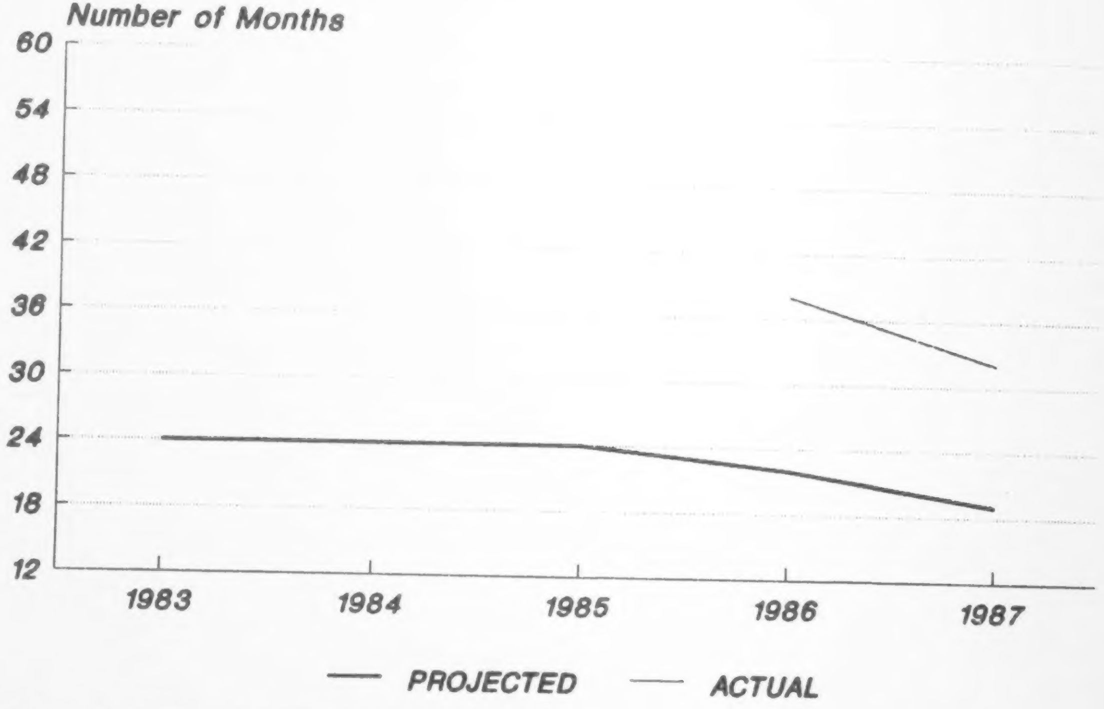
ANNUAL NUMBER OF CHILD PROTECTIVE SERVICES COMPLAINTS*

Fiscal Year	# Complaints
07/81 - 06/82	12,300
07/82 - 06/83	14,400
07/83 - 06/84	15,612
07/84 - 06/85	17,448
07/85 - 06/86	19,248
07/86 - 06/87	21,624

% Increase Over Six Years - 76%

* Each complaint may include more than one child. Not unduplicated.

PROJECTED AND ACTUAL AVERAGE LENGTH
OF STAY IN PLACEMENT - STATEWIDE



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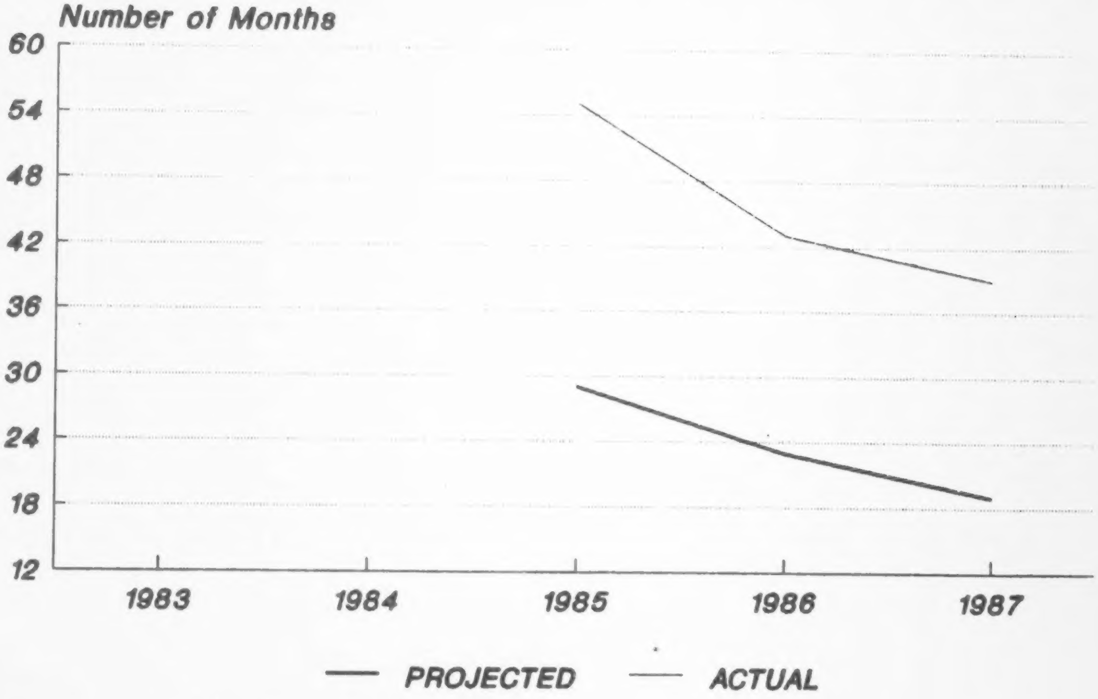
PROJECTED AND ACTUAL AVERAGE LENGTH OF STAY IN PLACEMENT - BALTIMORE CITY



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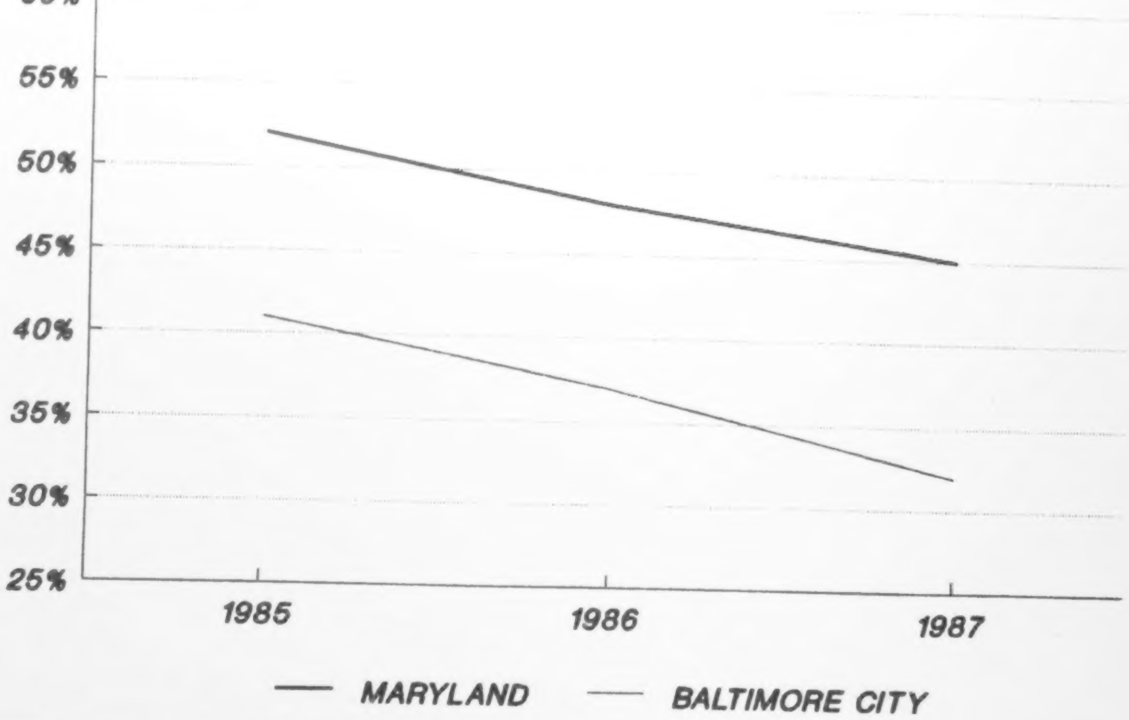

PERCENTAGE OF CHILDREN REMAINING
IN PLACEMENT SIX MONTHS

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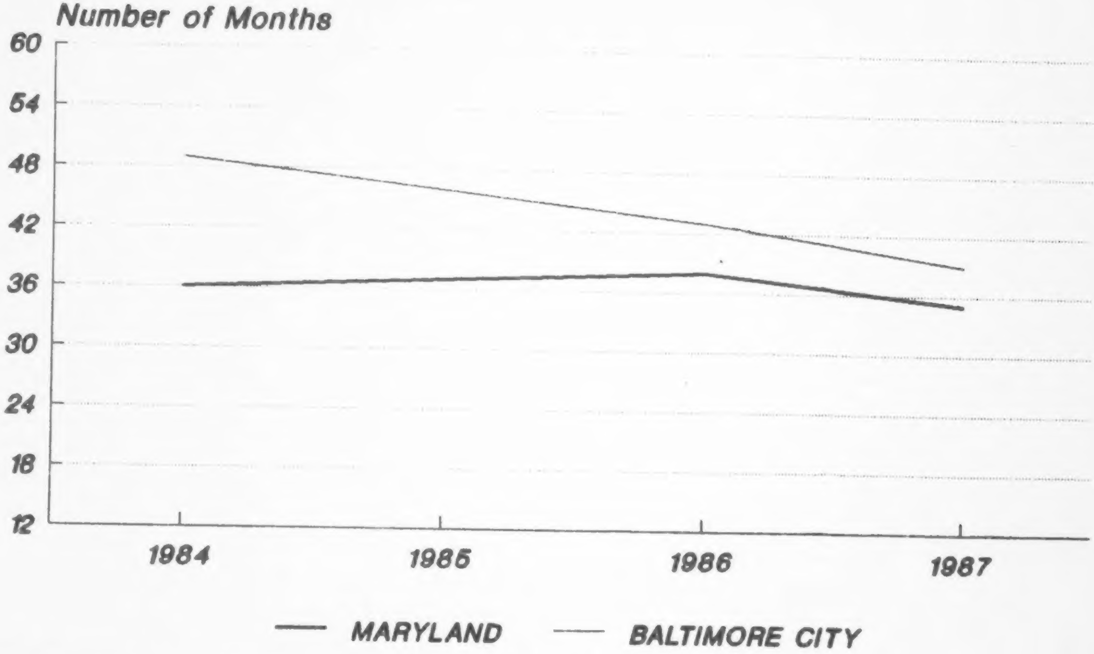
APRIL 1988

PROJECTED LENGTH OF STAY FOR CHILDREN IN PLACEMENT AT LEAST SIX MONTHS



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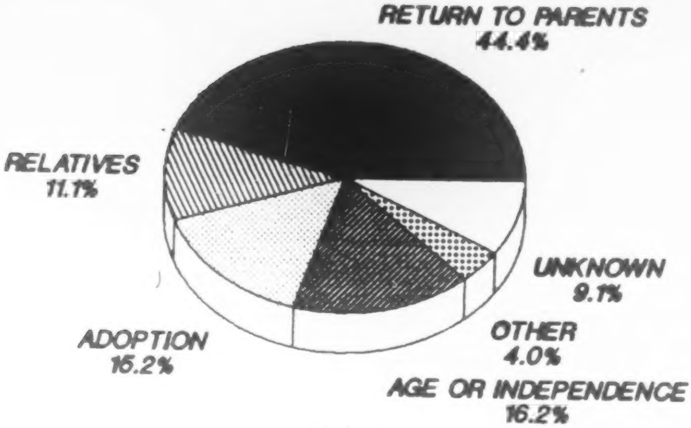
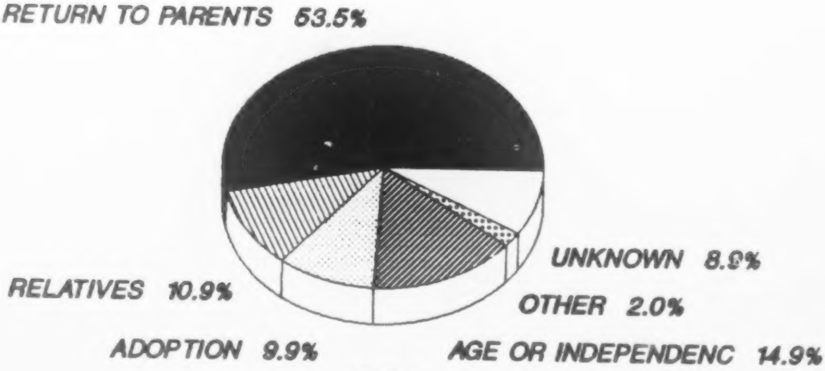
CASE OUTCOMES FOR CHILDREN IN MARYLAND



1985



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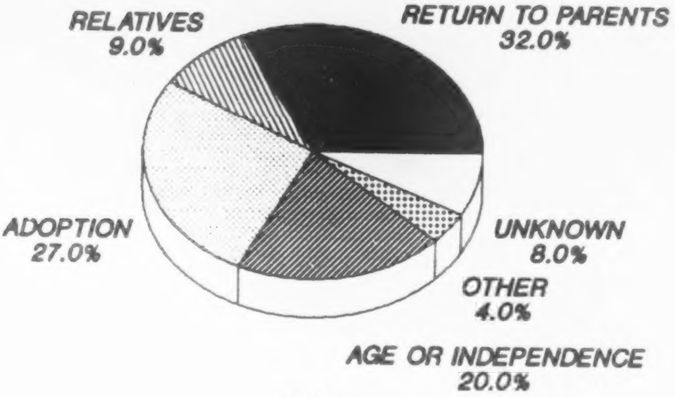
CASE OUTCOMES FOR CHILDREN RECEIVING CITIZEN REVIEW



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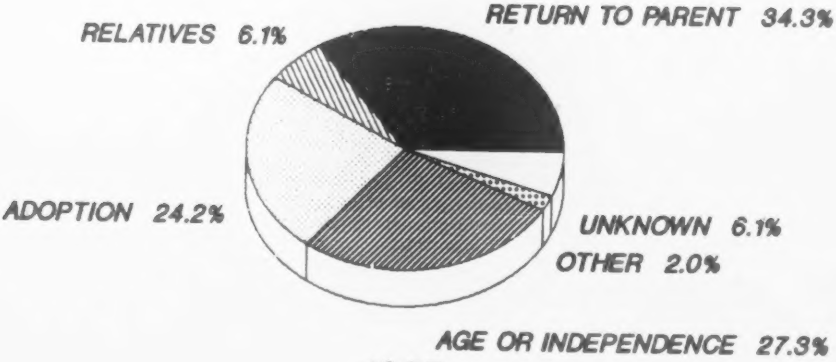

1987

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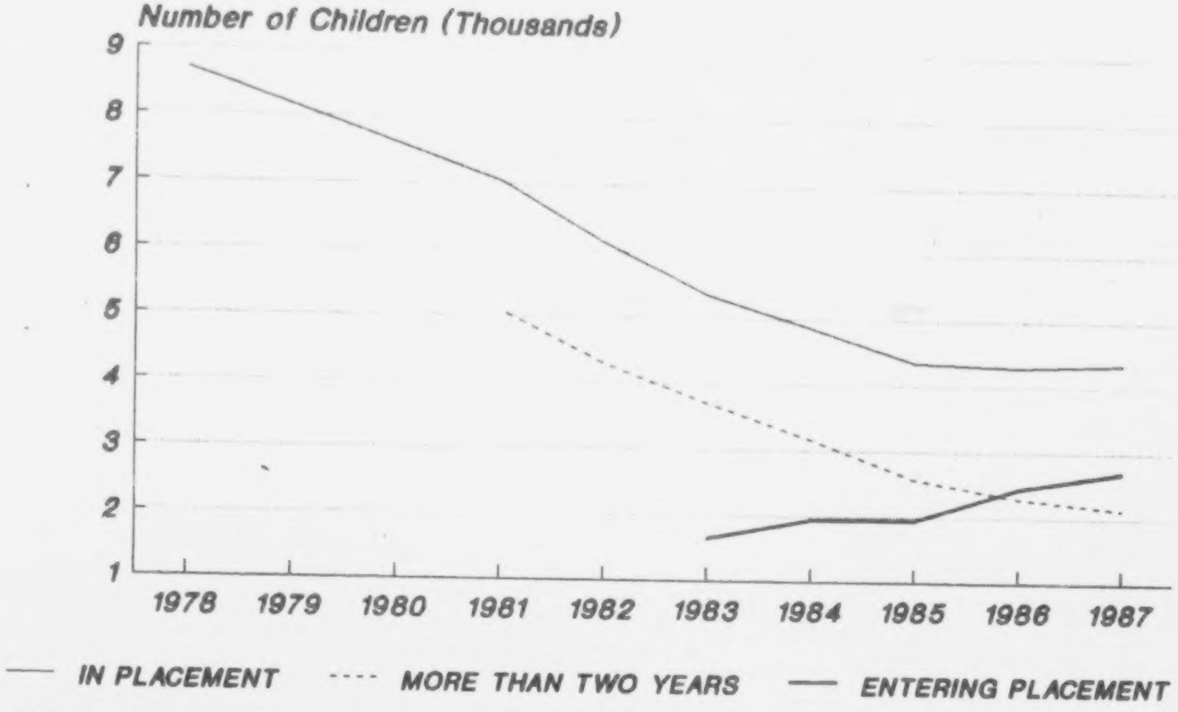
MARYLAND
FOSTER CARE POPULATION STATISTICS



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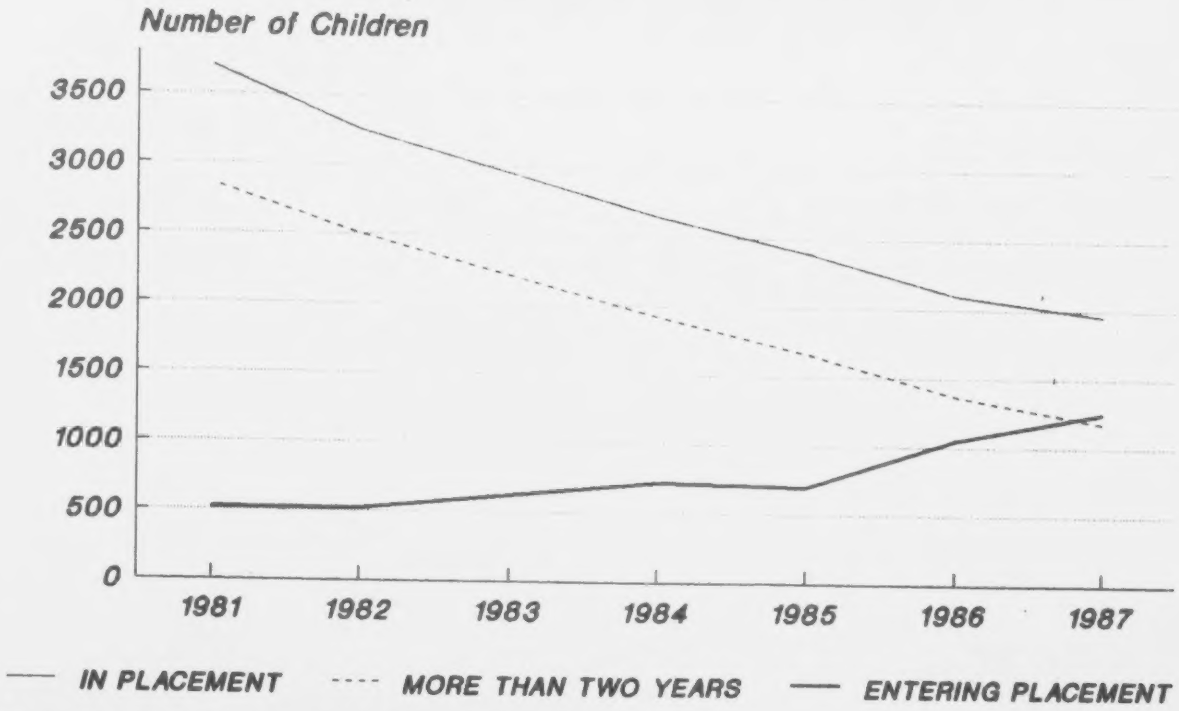
BALTIMORE CITY
FOSTER CARE POPULATION STATISTICS



MARYLAND FOSTER CARE REVIEW BOARDS
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Chairman **Miller**. Thank you.

Acting Chairman **Downey**. Thank you.

Chairman **Miller**. Ms. Zalkind.

Acting Chairman **Downey**. I realize the panelists have waited a long time. But could I ask if you would summarize your statements? If you would highlight your testimony, that would be most helpful.

STATEMENT OF CECILIA ZALKIND, ASSISTANT DIRECTOR, ASSOCIATION FOR CHILDREN OF NEW JERSEY

Ms. **Zalkind**. Fine. Thank you. I plan to do that. I hope the daunting length of our testimony did not encourage that.

I am Cecilia Zalkind. I represent the Association for Children of New Jersey. We are a statewide, nonprofit child advocacy organization. We are independent. We receive very little outside funding except for small grants that we are working on, and we have had a long history of activities in the child welfare area. We were involved in our State in enacting and amending our child placement review law. We have participated since 1984 in an American Bar Association project to remove the administrative and legal barriers to adoption for children in our State, which we have continued as an ongoing project.

We are at the point of completing a Federal grant project which we received in October of 1986 to look at the decisionmaking process for children in foster care. Our report will not be available until May, but some interesting issues have arisen out of our research, which I will touch upon very briefly.

We are very interested in, and applaud the purpose of the hearing today. It is a good time to assess the enactment of Public Law 96-272. In our view, this law has legitimized the notion of permanency; that placement should be prevented whenever possible, that children should be returned to their families whenever possible, but most importantly that every child has a right to a permanent home.

As you heard from everyone here today, the philosophy and the policy is there. But what about the implementation?

In our State over the last 8 years, we have seen some improvements, and some have been dramatic. They look very good on paper. There has been a decrease in the out-of-home placement cases since 1978. In 1978, there were 12,000 children in out-of-home placement in New Jersey. Today, there are 8,900; 6,700 in foster care and the rest in some type of residential or group setting.

On its own, this is a significant figure. Compared to how our child abuse and neglect allegations have risen, it becomes even more significant. In 1985, the number of abuse allegations doubled in our State from 20,000 to 40,000, and since 1984 there have been 50,000 new allegations every year. So the fact that our foster care population has leveled off is of significance.

There is also some indication that the length of stay in foster care has decreased, but because of insufficient data collection on our State level, it is not possible to document this fully. We can say that at least all children in foster care in our State have a case goal. Before the enactment of this Federal law, you could not say that. Children would be in the system with no planning for their future.

We have also seen improvements in the adoption system in our State. Some we can take credit for through our ABA process. Over the last year, the number of children coming into the adoption system from foster care has increased 25 percent. This is an increase in the adoption caseload that we feel reflects a commitment to permanency for children if it is determined that they cannot return home.

Most importantly, through our ABA Committee, the length of time in the legal process from the time that adoption is identified as a goal for a child to the time that child is legally free for adoption was decreased from 2½ years to 9 months, which is a significant decrease. We have continued this project through our State and have discovered that this time limit has been maintained. So this is not something that happened for the duration of the project and then increased once we left.

But, again, implementation is the issue. We believe through our Federal grant project that the decisionmaking process is in place. There is a process to determine that children come in to placement appropriately, that goal-setting is done, and that there is review of their progress toward goal at specific intervals. The assessment pieces are there, independent review, even notice to parents at timely intervals. But is it working? Our preliminary data from the grant reflects much of what you have heard this morning. Reviews are often late and superficial. Assessments and case plans are poor and are seen as a paperwork requirement rather than substantive analytical tools. Outcomes often result from external factors and not case planning.

Our child welfare system in New Jersey continues to be a very reactive and crisis-oriented one. In our testimony today, we see three areas that need Federal attention. One is that we would like to see some amendments to the law to address the quality of care issues for children; second, we would like to see some expansion of the definition of reasonable efforts to not allow so much State leeway on how reasonable efforts is interpreted. And we would like to see some language to strengthen the law about children's rights to permanency, especially for those who are not going home.

Very briefly, because you have heard much of this this morning, the quality of care for children in foster care is a very serious issue to our association. We believe that the public law has focused attention at the entry and exit points of placement; attention goes to placement prevention; attention goes to reunification. But what has resulted is that attention has shifted away from what happens to children who are in the placement system. We see the system right now creating more harm than good to the children it serves.

Most children in our State are separated not only from their families but from their brothers and sisters when they are first placed. A high percentage are placed out of county, making visitation very difficult. Visitation itself is very infrequent. The average foster child in our State sees his parent less than eight times a year once they come into placement. Physical and sexual abuse in out-of-home placement has increased. There is frequent replacement of children moving from one foster home to another, and we get a sense—and we have documented this in our project—that children who return home quickly tend to come back into foster care just as quickly.

In our project, 50 percent of the children we examined had been in prior placement with our State agency not once, but more than one time.

Most distressing to us was that in our review of records for children in the out-of-home placement system, so much attention is going to the planning and the process that the child has become incidental to the case. No one is looking at services to the child while they are in foster care nor to the future consequences to the child of either prolonged stay or movement in and out of foster care.

Two recommendations that we would make is to amend the Federal law to define a standard of care for foster children, and to define the State's obligation to meet that standard; second, we would like to see some regulations to make the factors we have mentioned—visitation, replacement from one foster home to another, recidivism in and out of foster care—become part of a Federal compliance review. So when the Federal Government comes in to look at New Jersey and other States they must ask these questions.

To just pick up very briefly on the ombudsman issue. I think it is a very interesting issue. In our State, we have recognized that child placement review tends to be a paper review. Reviews are not well-attended. You do not tend to see parents, even caseworkers, and very rarely the child.

We have two demonstration projects in our State that are using the court-appointed special advocate, CASA program, connected with child placement review. If a review board feels that a child is at risk because they have been in placement too long or there has not been any visitation with the parent or some other special issue arises, a CASA volunteer is used to go out in the field, work with that child, and bring that child's point of view back to the review board.

In our State, this program is really too new to assess, but it might be some alternative to the ombudsman suggestion which we heard earlier.

Second, we think it is time to further define "reasonable efforts." In our State, homelessness has had a tremendous impact on children coming into foster care. Statistics from our State agency indicate that 40 percent of placements have homelessness or housing-related issues as a factor, and 20 percent of placements are caused solely by homelessness. This should not be allowed to continue. Families should not break up because they cannot provide a place to live for their children. And, in fact, if a child comes into placement because of homelessness—whether it is the sole factor or an underlying factor—it makes reunification even more difficult.

The family who is on AFDC, whose children come into placement, lose their AFDC benefits and find it extremely difficult to find another place to live. So the child's stay in foster care becomes prolonged.

On the other end of the spectrum, we are seeing a lot of families with multiple problems who are very difficult to serve. I think the fact that our placement rates have not increased with our child abuse rates indicates that we have had some success in treating families at home. What we are left with are families with many problems that are very difficult to treat. Usually, there is a precipitating factor, such as homelessness or abandonment, but many underlying factors such as substance abuse, mental illness and poverty, which result in placement.

Our State system, as many others, tends to focus on the precipitating factor, not the underlying issues, for placement. The result is that services remain fragmented, and children move in and out of care. We need a full continuum of family-based services. Our State has initiated a homebuilder's model based on the Seattle program for crisis intervention services for families at the point of placement, but it is not enough. We need a full continuum of services from basic needs, to crisis intervention, to more general support.

Our specific recommendations would be to amend the Federal law to prohibit placement because of factors that are beyond the family's control, such as housing. And, second, we believe that there should be some further definition of "reasonable efforts" to include a core of services that a State must provide before placement can be made. This core of services should include basic needs as well as some of the traditional services provided in our State, such as homemaker services and child care. And the family-based continuum needs to be a part of that.

Very briefly, I was interested in the discussion about relatives. In our Federal grant project, relatives were a tremendous resource at every level. We did not intend to assess the impact of relatives but discovered that they were there as a resource at every level. They provided placements for children to prevent placement in unrelated foster homes. They were resources for children leaving placement. And, in fact, in many cases, they were resources for the entire family. Many of our homeless families were able to return intact to another relative who provided care for them.

We think our system needs to acknowledge the importance of relatives not only when relatives come to the agency to make a plan for a child, but to be much more aggressive about seeking those relatives out from the beginning.

Lastly, we believe very strongly the time has come to look at the exit or the other end of this system. We are focused a lot on reunification of families, but there are many children we are seeing who are not going home. I think it is time to face up to that. It is very difficult to admit that there is a family who is not going to be able to provide for a child, and that that child should not wait for an alternative permanent placement. But that was one of the other themes of this Federal law. I think we need to acknowledge that.

We are seeing two growing populations of children in our State that fall between the cracks in this way. Either they are children who move in and out of placement a great deal—and we saw a number of those children in our study. Children went home very quickly, averaging about 7 months in placement and then returned home, only to come back into placement just as quickly.

Somehow, the thought of adoption as a goal for these children is rarely considered by the agency. This re-placement can continue and continue and no one says: Wait, this child has been back in our care six times. Is it time to think about adoption as a goal for him?

On the other side are children in placement whose families are very marginally involved and who never make a plan for the child. Unfortunately, what we have seen is that these children also may have no commitments to their foster family.

In our State, best interest is the standard for termination of parental rights. Our court system is very comfortable with best interest if it is linked to the idea of psychological bonding. If you can demonstrate that a foster parent is going to adopt that child, your chances of success for termination are very great. If that child is committed to no one, his case never even comes before our Family Court.

So, ironically, it is the children who need permanency the most, who are coming in and out of care, who have foster parents who are not committed to them, who are not receiving permanency services.

Again, our specific suggestions would be to amend the law to stress timely permanency for children if their parents cannot make plans despite the best efforts of the State. I realize that is part of the law right now. But I think there needs to be a stronger statement about the child's rights to permanency through adoption if reunification fails.

Two suggestions that we would like to explore are: One, should there be some time limits on placement? It is a frightening idea, but it might be a time to think of that. Secondly, it has been suggested to us that the current law puts a cap on adoption assistance, that adoption assistance cannot exceed the foster care rates. Perhaps it is time to explore whether there should be some incentives to adoption, especially since many of the children who we see coming out of the foster care system are very damaged by that system. Adoptive parents need some additional support and effort to make permanent plans for these children.

In conclusion, I would like to say that I would be very happy to work with the committee further. We could develop our recommendations more fully than we did considering the time that was allowed for this testimony. I would also be very glad to forward our project report that we are finishing in May to you.

Again, I would like to commend you for your commitment to this issue. We are very committed to these children in our State. We feel that we have a strong obligation to them. For these children, the State has intervened and determined that the parent is not good enough and that the state must be the parent. We see these children as children who are very dependent on us in the State for their future.

Thank you very much.

[The statement of Ms. Zalkind follows:]

ACNJ
Association For Children Of New Jersey

April 13, 1988

TO: The Honorable George Miller, Chairman
Members, House Select Committee on Children, Youth and Families
and
The Honorable Thomas J. Downey, Acting Chairman
Members, Subcommittee on Public Assistance and Unemployment Compensation, House Committee on Ways and Means

FROM: Ciro A. Scalera, Executive Director
Cecilia Zalkind, Assistant Director
Association for Children of New Jersey

RE: **TESTIMONY ON FOSTER CARE, CHILD WELFARE AND ADOPTION**

The Association for Children of New Jersey (ACNJ) is a statewide, non-profit child advocacy organization. ACNJ, which has a broad individual and organizational membership, advocates on behalf of children and families on all issues that effect them in our state. Our advocacy efforts include conducting research, developing and supporting legislation, and maintaining oversight of the policies and programs of our state administrative agencies. In short, we seek to be an active voice for New Jersey's children and families.

Our Association has a long tradition of concern for children and families served by the child welfare system. We were instrumental in drafting and supporting legislation to implement and improve the child placement review system in New Jersey. We serve on numerous committees involved with various aspects of the child welfare system, most recently an American Bar Association Project which has been highly successful in reducing the legal and administrative barriers to adoption of children in New Jersey.

We are also completing a federally-funded project to evaluate and improve the decision-making process for adoption-potential children in the foster care system. This project, which has included some original research, has utilized a committee process comprised of representatives of the social service, legal and child placement review systems. Our report will not be available until May; however, some of the issues raised in the project will be discussed in our testimony before you today.

Our advocacy efforts indicate that in spite of the improvements that have been made in the child welfare system, there is still much to be done. PL 96-272 was successful in legitimizing the importance of permanency for children in the out-of-home placement system. In New Jersey, the philosophy of permanency has been embraced but the actual implementation has not been accomplished.

We see three basic areas that need further federal attention: improvement in the quality of care for children in out-of-home placement, better definition of reasonable efforts to prevent placement and stronger legal mandates to ensure permanency for the most vulnerable children currently in placement.

SOME IMPROVEMENT

In the eight years since the passage of the federal Adoption Assistance Act, New Jersey has seen some improvements in its child welfare system. Most significantly, the number of children in out-of-home placement has decreased. In 1978, there were almost 12,000 children in out-of-home placement in New Jersey. Today there are about 8900 children in substitute care - 6700 in foster care and the remainder in group care, residential placement or independent living arrangements.

These figures are significant in light of the dramatic increase in child abuse and neglect reporting that New Jersey has experienced. In 1984, the number of child abuse and neglect allegations doubled -- from 20,000 to more than 40,000. Since 1984, the number of abuse and neglect referrals has remained close to 50,000 each year. The fact that there has not been a corresponding increase in the number of children in placement suggests that our state has been successful in treating some families without resorting to placement.

There is also some indication that the length of time that children spend in placement has decreased. According to the most recent statistics of our state agency, the Division of Youth and Family Services (DYFS), the average time in foster placement is slightly more than 2 years. This is, however, a somewhat misleading figure since it excludes a large number of children for whom long-term foster care is the goal. It also does not measure those children who return to their families and come back into foster care, often repeatedly.

Statistics from the state adoption program also support this emphasis on permanency for children in foster care. The caseload in the four adoption offices has increased 25% in the last two years. The adoption program itself has seen some dramatic and innovative changes. One of the most significant outcomes of the American Bar Association Task Force on Special Needs Adoption, co-chaired by ACNJ and DYFS, was the reduction in the length of time needed to legally free a child for adoption placement from 2 and 1/2 years to 9 months.

DECISION-MAKING

A decision-making process has been defined in our state to ensure that children come into placement appropriately, that case goals are identified and that the progress toward those goals is measured in an appropriate and timely fashion, according to the federal law. The elements of this decision-making framework -- assessment and goal-setting, independent review and notice to parents -- are all in place. But whether or not this process is being carried out effectively is still questionable.

The preliminary findings of our federal grant project indicate that the decision-making process has the potential to be effective but that it has not been implemented. Many of the required reviews are late. The quality of the case plans and assessments is poor. Participation in reviews is superficial. The key elements of decision-making are often regarded as paperwork requirements rather than as important steps to achieve the case goal.

More critical is the link between the decision-making process and case outcomes. Outcomes most often result from external factors, not case planning. Our system continues to be reactive and crisis-oriented. Questions may be raised as to whether some of the crisis orientation is a knee-jerk response to the federal law.

- Have we become too conscious of preventing placement, leaving children in family situations so damaging that they return to placement with more severe problems, necessitating longer and more restrictive placements?

- Are we so committed to timely reunification that children are sent home precipitously, eventually returning to placement again -- and again -- before the underlying family problems are finally addressed?
- Is the increase in adoption due to the needs of the child or because in some cases it is easier to achieve than reunification?

If the permanency efforts of our state were measured by its policies, there would be little question of success. But implementation of those policies is more difficult. We believe strongly that the time has come to assess the outcomes and quality of this system in terms of its services to the children in foster care, its efforts to prevent placement and its safeguards to ensure that all children can achieve permanency.

QUALITY OF CARE STILL SUBSTANDARD

The concept of permanency is based upon the notion that temporary foster care does not provide a stable home environment for a child to grow to adulthood. Thus, federal and state laws focus on efforts to prevent placement whenever possible and to effect timely reunification if placement occurs. Although this attention to the entry and exit points of placement has had success in preventing or reducing placements, it has also shifted attention away from quality of care issues.

Children still suffer in the out-of-home placement system. A look at some of the common effects of foster care in our state prove this point.

- 60% of children are separated from their brothers and sisters upon initial placement into foster care.
- 30% of children are placed in counties other than those in which their parents reside.
- Parent-child visitation is infrequent and averages about 7.6 visits per year.
- Sibling visits are not uniformly arranged.
- Most foster children live in three different foster homes before they return to their families.
- Incidents of physical and sexual abuse in out-of-home placement have increased.

These devastating statistics suggest that for many children, the very system designed to protect them often results in more serious harm.

The implications for the foster child are even more dramatic. The child who comes into placement loses not only his parents but also his siblings, his friends, his school and his community. Visitation is infrequent in spite of its importance in maintaining the family-child relationship and in effecting timely re-unification.

Re-placement figures are higher than have been documented. New Jersey does not measure recidivism or the re-placement of the child who returns home to his birth family and comes back into placement, perhaps on more than one occasion. Yet 50% of the families in our federal grant project had prior placement histories with DYFS.

Less tangible but just as important are issues for which our state has not attempted to gather data in any formal way. No public data exists on the incidents of physical or sexual abuse in out-of-home placement -- an issue which has been reported with alarming statistics by other states. Similarly, there is very little data on the services provided specifically to the child during placement. One of the most striking observations of our project research was that the needs of the child in placement were merely incidental to the case planning and outcomes.

TOTAL IMPACT

This pattern of continued separation and loss, uncertainty and unmet needs, has a devastating impact on the child. The child who experiences repeated loss -- regardless of whether he ultimately returns to his family, is placed for adoption or grows up in foster care -- suffers irreparable damage. Intensive remediation services must be made available to the child to enable him to return to his birth family or to form a meaningful attachment to an adoptive family. For many children such services come too late.

We are seeing an increasing number of children in our state who require more than the traditional family orientation of foster care. Some are children whose family problems are so severe that the child comes into placement with serious needs that are rarely addressed in placement. Some are children so damaged by the foster care system that they ultimately end up in residential treatment.

Whatever the reason, it is clear that a major gap in our child welfare system is the absence of accountability for the quality of care for foster children. In our efforts to ensure that children not be placed inappropriately and to effect timely family reunification, we may have lost sight of the child's need for nurturing, stability and the provision of necessary services -- whether therapeutic, educational or medical -- during placement.

The federal law must be strengthened to mandate an appropriate standard of care for children in placement. Our recommendations are two-fold:

- Amend the federal law to clearly define the state's obligation to provide quality services for children in placement

- Strengthen federal regulations to require monitoring of visitation, re-placement, abuse allegations, etc. as part of the federal compliance review.

Children in placement should benefit from, rather than suffer for, the experience.

WHAT ARE "REASONABLE EFFORTS"?

As we have already noted, the rate of foster care placement has decreased in the face of a rising child abuse caseload. This indicates that our state has been successful in treating a larger percentage of families at home without resorting to placement. But new reasons for placement have emerged which necessitate a clearer definition of the state's obligation to make reasonable efforts to prevent placement.

Homelessness and housing-related problems have become a significant element in foster care placements in New Jersey. Reports of our state agency and the child placement review system indicate that homelessness is a factor in over 40% of placements into foster care. In 18% of placements, it is the sole precipitating cause of placement. Even though these families may have experienced other problems requiring state involvement, those problems could have been treated successfully with family-based services but for the loss of housing.

Ironically, many of these families are also known to the public welfare system and receive AFDC benefits. Yet neither system is fully accountable to assist these families to find housing. The child welfare system in our state does not regard the provision of housing assistance as being within its federal mandate to make reasonable efforts to prevent placement. The public welfare system does not regard itself as responsible to keep families together and does nothing to assist in the search for housing. Even if housing can be obtained, the cost very often exceeds the family's AFDC allotments.

The result of this bureaucratic nightmare is the break-up of families and placement of the children in foster care. Once in placement, reunification becomes even more difficult, since the family loses its AFDC benefits and thus the income to seek and obtain housing.

ACNJ, along with many other individuals and organizations in our state, is advocating for a change in these agency regulations and policies. A program of rent subsidies and a re-assessment of New Jersey's standard of need for AFDC are two areas receiving attention at this time. There has also been a discussion of the need for state legislation to prohibit foster care placement because of homelessness.

Traditional social services such as homemaker assistance, child care, counseling and parenting skills training are no longer sufficient to assist those families facing placement. A full continuum of family support services is also imperative -- from assistance in providing basic needs to intensive, in-home treatment at the time of crisis.

Stronger language is needed in the federal law to more clearly define reasonable efforts to prevent placement. Our recommendations include:

- Amend Titles IV-B and IV-E to prohibit placement because of homelessness or other factors beyond the parents' control which prevent them from providing their family's basic needs.

- Strengthen the federal Adoption Assistance Act to identify a core of services which a state must provide and exhaust before a child can be placed out-of-home.

ACHIEVING PERMANENCY

At the other end of the spectrum are those cases in which placement occurs because the family's problems are so complex and longstanding that family-based treatment is difficult, if not impossible. These are very often the situations in which placement occurs because of a specific problem, such as abandonment or abuse, but where there are serious underlying problems of neglect, substance abuse, parental inadequacy and poverty.

In many of these cases, it is difficult to assess the family problems. Case workers tend to focus only on the precipitating reason for placement, not the underlying factors or issues. The result is a fragmented, reactive service delivery system in which children are often returned to their parents before the placement issues are fully addressed -- only to return to placement quickly. In our federal grant project, we saw many families who were recycled through our state child welfare system again and again.

It is the children who suffer from this very reactive approach to placement. Admittedly, these are very difficult families to treat. Yet using placement as a stopgap measure without regard for the long-term consequences to the child is shortsighted and ultimately results in more harm than good.

It is ironic that the very children who need permanency the most are often those for whom it is most difficult to achieve a permanent plan. They are the children who are still adrift in the system, overlooked for termination of parental rights and adoption planning. They are the children whose parents are marginally involved in planning for them and whose foster parents are not interested in adoption. They are the children who come in and out of placement repeatedly, whose needs are never fully met by their parents or by the foster care system.

These children continue to exist on the periphery of the child welfare system. Although the premise of the federal Adoption Assistance Act is timely permanency, either through family reunification or adoption planning, this remains little more than a philosophy in our legal system. In New Jersey, the most successful termination of parental rights cases are those in which psychological bonding to the foster parents can be demonstrated. The child who has ties to no one remains adrift.

More direction is needed to ensure that adequate permanent plans are possible for these children, too. New federal and state legislation is needed to clearly assert the needs and rights of the child within more specific time limits and to clearly delineate parental responsibility as well as parental rights. We recommend that the federal law be strengthened to include specific time limits for placement, based upon the child's need for a permanent home.

We are also becoming more aware that the traditional notions of permanency - either return to a parent or relative or adoption - are not possible for all children. In spite of an innovative, high quality adoption program in our state, a growing number of children experience adoption disruption or dissolution. Some of these children will grow to adulthood in the placement system, despite strong efforts to achieve permanency for them.

Although we are not advocating for acceptance of long-term foster care as an alternative, there is a need to develop "alternative permanency services" for some of these children. Rather than allowing them to "age out" of the placement system without preparation for adulthood, we need to advocate for the development of better programs to help to prepare them for independence.

MORE WORK TO BE DONE

Much has been accomplished in the eight years since the enactment of the Adoption Assistance Act. But so much more is left to be done. The framework is in place but attention must be given to the quality and effectiveness of the system.

The needs of the children, however, remain the same. These are the children to whom we must be the most committed, because these are the children for whom the state has intervened and assumed a parenting role. These are the children who are dependent on the state for their future.

Acting Chairman DOWNEY. Thank you.
Ms. Stitt.

STATEMENT OF CAROLYN STITT, EXECUTIVE DIRECTOR, NEBRASKA STATE FOSTER CARE REVIEW BOARD

Ms. STITT. Good afternoon, Representatives. I, too, come from a State on which Public Law 96-272 had a huge impact. In 1981, several foster parents and child advocates were very frustrated with the current system we had. And as they talked individually, many of them had some of the same concerns: that children in care did not have long-term plans; that there were not court reviews; and that there was no data on any of the kids in the system.

The one problem they identified, which unfortunately continues to happen today, are children who enter care repeatedly, as a result of abuse. What we were told in Nebraska was that there was no way we could document that abuse, and, therefore, the children were put back into similar situations to suffer that again.

Out of these four areas of concern came the Nebraska Foster Care Review Act, and we seem to be unique in one way, and this is the independent tracking system. This system is difficult to administer, but, after listening to the testimony today, I am very glad we have the tracking system we have.

Every child who is placed in out-of-home care in Nebraska is reported to the Foster Care Review Board's tracking system. So children who are in private placement as well as public placement go into our system. We do have difficulties obtaining the data. That is something that my office has to work on consistently, and we have institutionalized checks to make sure agencies are reporting to us.

We were very fortunate in Nebraska, because the attorney general's office got behind us very strongly and insisted that agencies report these placements to us. The other interesting component is that the courts have to report their legal actions—how long it has taken them to adjudicate, dispose of a case, and when the last review is.

We are only able to review approximately 40 percent of the children eligible for review, but we use the different data reported to the tracking system to decide which kids shall receive a citizen review. Also in the Foster Care Review Act, it calls for a dispositional order by the court after 1 year and every 6 months thereafter. And all children are required to have a physical exam within 2 weeks of coming into care. These components were all components that came out of Public Law 96-272.

There were several things said earlier by speakers that I could underline and talk about in Nebraska. Recently, Charlie and I presented at a conference, and there were approximately 25 States represented there. Charlie had the idea to ask how many States knew how many kids they had in out-of-home care. I would say over three-fourths raised their hands saying they had no idea. I was waiting and waiting, and I was fairly startled by that because, as you know, in some issues Nebraska certainly is not the leader, but clearly in keeping tract of foster children we are.

We have had some very strong child advocates on both sides of the parties, and they have been very political. That is, frankly, one of the reasons we have had the review board and one reason it survived.

We went under at least six attempts in the first 3 years to get rid of the review board by the previous Governor, judges, and administrators. Every time our annual report comes out, my phone rings off the wall with people threatening to sue us, and all we do is present the facts. We present what is happening in these children's lives. But it is a very threatening thing to have this information out there.

I would say that is one of the reasons yours and other States have not collected data. It is not because this task is impossible. Three of us sat down and designed our system. It took a lot of work to get people reporting to us, but it is not impossible to do.

So one of my strong, recommendations for Public Law 96-272 would be really pursuing that data piece so we can talk in real terms in each State and not have so many guesstimates or no responses at all.

I also had several charts in my testimony which you will be able to refer to. I will not go into those. Some of the things that we have found, as some of the other States reported, is that kids with periodic intense review do decrease the time of care, or the time they are in care. In 1984, 64 percent of the children in Nebraska spent 2 years in care. In 1987, that was down to 42 percent.

The one area that was talked about here today, which I think really needs to have some attention nationwide, is the number of placements we are seeing, particularly for young children. There has been some research done that indicates to us kids who are moved more than three times under 10 years old become progressively more mentally ill. And as New York was discussed today, I could not help but cringe thinking how many kids we are talking about who are experiencing these moves, and what is the impact is across our country. That is a real concern I would have.

The other thing which was discussed many, many times is the audit, the implementation of Public Law 96-272. I proudly gave our numbers to the representative of HHS, and he was very nice and said these are wonderful. I pointed out pieces, particularly the lack of services that the local review boards have concern about. We do have local review boards across our State, and they do spend more than 2½ minutes on their reviews. I just came from a meeting 2 months ago, and a Lincoln board spent 2 hours on one case. In that particular case, the judge removed himself, and the attorney general's office got a special prosecutor to pursue a case that the review board was particularly concerned about.

But, anyway, the information that I gave our representative was ignored. It was very frustrating for me because I felt it was a chance where HHS could at least talk to the managers in the system to reinforce some of these concerns that are being brought to you today. So any information I could provide to you or concerns that we have, I would be glad to do that.

We do look very closely at services delivered, and recently we found that a third of our kids received absolutely no services, the kids and their families. The service they receive is foster care, being removed from their family. That is of great concern to us in

Nebraska, and I am hoping that we are going to get some movement in that particular area.

One of the things that our boards do is communicate to the courts and the child's attorney on each review, not just back to the agency. And about half of the barriers, we find, are legal system barriers. Our system works very hard at trying to integrate that system, and one of the issues that I think we are seeing today is the deterioration of both of those systems. The legal system many times is not meeting any kind of reasonable time frames, nor is the agency. The result of what you are seeing are some very, very long lags and too many movements.

Another issue that I would like for you to consider in Public Law 96-272 is earlier reviews by these external review agencies. In some cases, there is so much damage that has been done by 6 months that it is pretty hard for the boards to push anything along constructive. Many, many times that is a complaint that the citizen boards bring to me about how long it is we are waiting to review what has been done. And if you are talking about a year-old child, 6 months is half of their life. I think that was pretty graphically displayed for us this morning. So earlier reviews may be something you would want to consider.

You do have my testimony and several reports, as I have said. It has been very enlightening for us to have data on both the private and public system, and any questions you may have at a later time or today, I would be glad to answer.

[The statement of Ms. Stitt follows:]

TESTIMONY - CAROL STITT

Good afternoon. My name is Carol Stitt. I am Executive Director of the Nebraska State Foster Care Review Board.

Why the Foster Care Review Board was created

Nebraska has had a Foster Care Review Board since 1982. Prior to that time, foster parents had become very frustrated because no one knew if a child had a long-term plan. Many suspected there wasn't a long-term plan for the child they were caring for. Services sometimes seemed to be directed towards returning the child home and other times toward adoption or long-term foster care.

When pressed for a decision or information regarding the plan, caseworkers would say it was the court's decision. On the other hand, the court's appeared to be leaving the decision up to the agency. Many children were in foster homes four years or longer without ever having a court review.

Data on children in out-of-home care wasn't available. No one knew how many children had been placed out of their homes. Requests for information brought either no response, a response that the information was not available, or guess estimates.

Especially alarming was the fact that children seemed to be entering care repeatedly because of abuse. When foster parents asked how this could happen, they were told there was no documentation of the previous abuse incidents.

Nebraska's Foster Care Review Act

Because of the concern of the foster parents and other child advocates and the passage of P.L. 96-272, the Foster Care Review Act was passed by the Nebraska Legislature. The Act created the State Foster Care Review Board. The State Board was responsible for training and developing local foster care review boards, consisting of community volunteers who would meet periodically to review cases of children in foster care.

The Act mandated that children in out-of-home care will have plans and the plans will include:

a. Why the child came into care,
b. How long the child has to be removed to accomplish the purpose of the out-of-home placement,
c. What services are to be provided,
d. Who is responsible for the plan, and
e. A complete record of previous placements.

The children's plans will be reviewed by citizen review boards who will sned their recommendations to the court that placed the child in care and the agency responsible for the child.

In addition, the courts were required to review the Dispositional Order after the child has been in care over one year and every six months thereafter until the child is adopted, reaches the age of majority, or otherwise leaves care.

The Foster Care Review Board was to develop a tracking system to include all children in out-of-home care. This included children in public and private agencies. The purpose of the tracking system was to know how many children were in out-of-home care, where the children are, how many placements each child has experienced, and how long the child remains in care. The system also tracks the children between agencies and follows the court actions regarding the child.

Finally, all children were required to have a physical examination within 2 weeks of entering care.

Many of these components comply with and were laid out by P.L. 96-272.

How Nebraska's Review Board is organized

Unlike most other Foster Care Review Boards, Nebraska's Review Board was not set up under the auspices of the Department of Social Services or the Courts. Instead, it was set up as a separate State Agency. As a result, the Review Board has been able to function totally independently from the courts and agencies.

Implementation of the Act

The Foster Care Review Act became law in August, 1982. Seven State Board members were selected by the Governor. Two members were from each of the State's three Congressional Districts; and one members was a member at large. The State Board advertised for, interviewed, and selected an Executive Director.

The Board's office was opened in Lincoln in August. The initial budget was $63,918. Newspaper, radio, and television public service announcements asked for volunteers and applications were sent to those interested. Twenty-seven 5 member boards were established. A training package was developed and training was presented in a number of sites across the State in early 1983.

It soon became apparent that activating all 27 boards would be impossible due to lack of funding for staff support for the boards. As a result, four boards were activated in the summer of 1983. Plans were made for gradual expansion.

At the same time, a mini-computer was purchased for the tracking system and tracking forms were developed for courts and agencies. Forms were received and processed for 4,600 children. The four pilot boards reviewed 151 children during 1983. The First Annual Report was published in early 1984.

In addition, the Review Board conducted a study of prisoners in the various correctional facilities to determine the relationship between foster care as a child and incarceration as an adult. The correlation was striking. The study revealed that 30% of the male offenders and 32% of the female offenders had been in court-ordered out-of-home placement as a child. Furthermore, offenders who had been in court-ordered out-of-home placements as children were more likely to be admitted to the adult correctional facilities at a younger age. Nearly 35% of the male offenders who had been in court-ordered out-of-home placements were admitted to the correctional facility by age 20, compared to 17% of the male offenders who had not been in a court-ordered out-of-home placement.

During its second year of reviewing children, 738 reviews were conducted on 568 children. The Board expanded its reviews from the Department of Social Services (the agency responsible for the majority of children) to include the Lincoln Regional Center and several private agencies.

During this year, 2,388 volunteer hours were donated by State and local board members. The number of local boards was increased from 4 to 17. Over 7,100 children had been reported to the Board's tracking system. The budget for the Review Board in 1984-85 was $159,832. The Second Annual Report was publisned.

The following fiscal year was difficult because the Review Board's appropriation was reduced to $157,833 as the result of overall reductions made in all State agencies. During this time, 2,202 reviews were completed on 1,091 children and the number of children on the tracking system had increased to 10,637, of which 4,522 were active cases. The tracking system was improved by moving from the mini-computer to the State's large IBM mainframe. 3,409 hours were donated by the local board members to reviewing children's cases.

At the same time, the Third Annual Report was published and a survey of services offered by child caring facilities across the State was conducted. The Review Board co-sponsored permanency planning training for guardians ad litem in several cities throughout the State.

During the 1986-87 fiscal year, the Review Board continued to participate in permanency planning training, this time for county attorneys and judges. 1,654 reviews were conducted on 1,123 children. The Review Board's budget was $167,843. A "Special Report to the Senators" was published in lieu of the Fourth Annual Report. The tracking system continued to be improved and addition agencies were added for review.

During 1987, 1,871 reviews were completed on 1,210 children. 16,374 children were on the tracking system; 4,375 active on any individual day. The Fifth Annual Report was published with a special section on sexual abuse. In addition, plans are underway to provide training to guardians ad litem and judges of sexual abuse. Local review board members and staff were provided with training on developmentally disabled children, family systems theory, and cult activity in Nebraska. The Board's budget at this time was $200,322.68.

During this period, several changes were made in the Foster Care Review Act. On the State Board, the at large position was eliminated. Three chairs from local review boards, one from each Congressional District, were added. In addition, employees of courts and agencies were eliminated from being able to serve on the State or local boards due to their possible conflict of interest.

How Recommendations are developed

The Foster Care Review Board depends upon its citizen volunteers to identify problems and hold the appropriate person or persons accountable. The local boards have an effective mix of people serving on them. A typical board might have a mental health professional, an attorney, a nurse or someone with a medical background, an educator, and a foster parent. With this mix, the board is able to look at a child's case from a variety of viewpoints and with a variety of expertise.

The Foster Care Review Board develops recommendations in two ways. At the local board meetings, recommendations are developed for each child reviewed. These recommendations are sent to the court that placed the child in care, the agency responsible for the child, the child's guardian ad litem, and, when appropriate, the county attorney.

The local boards also identify systems problems which they communicate to the State Board. The State Board makes the dicision as to whether these recommendations should be published in the Board's Annual Report. For example, in the area of sexual abuse, several issues kept repeating themselves so the State Board made the decision to focus on this problem witn a special section in the Annual Report.

The following is a case example which shows the kinds of problems the Boards identify.

> Case Example: "Laura" and "Lucinda", ages 7 and 11, were placed in foster care because of neglect. Both girls presented "acting out" behaviors characteristic of sexually abused children. When they became comfortable with their foster families, both girls individually reported sexual abuse by their father. In spite of the father refusing services to address the abuse, Laura was returned home. The Review Board, in reviewing Lucinda's case, expressed grave concerns for the safety of Laura and a younger sibling in the home. Because of concerns communicated by the Local Board, a special prosecutor from the Attorney General's office was appointed ano the legal staff from the Department of Social Services has petitioned the court for a new hearing.

Cases like the one above clearly show the need for county attorneys to have training on how to gather information and proceed in cases of this kind. Judges need to recognize that sexual abuse occurs and learn how the court can intervene. Agencies must train their Child Protective Services staff on how to investigate and intervene for the safety of the child. Finally, foster parents must be trained in the area of sexual abuse to understand the pain and shame of sexual abuse and that these children and youth may try to re-create this cycle in order to receive affection.

Issues outside of the Foster Care System

There are a number of issues in Nebraska outside the foster care system that have impact on the lives of the children. Included is the increase in child poverty. 20% of all children live below the poverty line which includes 25% of pre-school children. 37% of all children at some point in their childhood are below the poverty line.

Single parent families make up 21% of the households with children. Of these, 40% live below the poverty line.

As in other places throughout the United States, Nebraska has a lack of adequate daycare. This is especially true in rural areas.

Because of medical advancements, there has been an increase in developmentally disabled children. These children are at higher risk for abuse.

There is a lacking of adequate low income housing, both in urban and rural areas.

Finally, the Farm Crisis has been stressful not only for the people who are losing their land but also for the people who work for them and the communities in which they reside.

Recommendations regarding P.L. 96-272

One of my strong recommendations for 96-272 would be pursuing the data piece so we can talk in real terms for each State and not have so many guesstimates or no reponses.

Intense, periodic review of children is very important. We have found that these reviews do decrease the amount of time a child spends in out-of-home care. In 1984, 64% of the children in Nebraska had spent two years in care; in 1987, only 42% of the children had been in care over two years.

One area that needs nationwide attention is the number of placements we are seeing, particularly for young children. There has been some research done that indicates children who are under age 10 who are moved more than 3 times become progressively more mentally ill.

In Nebraska we have been looking very closely at the services being delivered. We have found that one third of the children receive absolutely no services; that is, the service they receive is foster care. This is of great concern to us.

Another issue I would like to have considered is earlier reviews by external review agencies. In some cases, there has been so much damage done by 6 months that it is hard to recommend anything very constructive. If you are talking about a year old child, six months is half their life.

STATEMENT OF FRANNY MAGUIRE, PROGRAM AND STAFF DEVELOPMENT OFFICER, FAMILY COURT OF THE STATE OF DELAWARE

Ms. MAGUIRE. I am Franny Maguire. I am the program and staff development officer of Family Court of the State of Delaware. I am a member of the Delaware Task Force on Permanency Planning, and I am a past president of the Junior League of Wilmington.

When the Adoption Assistance and Welfare Act was passed by Congress in 1980, the State of Delaware has 1,200 children in placement. Typical of these children was Jenny, who entered care at the age of 5.8 years and remained in permanent foster care until she was 18 with infrequent visits by her mother and placement with at least six different foster families. Today in Delaware, 671 children are in foster care, with over 54 percent spending less than 2.5 of their time in care. A typical child today would be Jimmy, a black male who is 15 years old, currently serving time in our juvenile detention facility, and who will remain in care until age 18. Today, there are fewer children who have spent 2½ to 7½ years in care and also fewer children who have spent more than 7½ years in care. It indicates that Delaware's foster children are less likely than even a few years ago to spend long periods of time in care.

What has caused the difference in our State? In 1979, the Junior League of Wilmington, with technical assistance from the Association of Junior League, wrote legislation which created a Citizen Foster Care Review Board. Today, 78 volunteers review all of the children in the custody of Child Protective Services who are in out-of-home placement. These reviews are conducted every 6 months. In 1981, the Junior League of Wilmington started a pilot project in Family Court which provided abused, neglected, and dependent children with a court-appointed special advocate. Today, 66 CASA's statewide investigate the cases of child abuse and neglect for the judges and act as an advocate on behalf of the child during the proceedings.

The family court of the State of Delaware conducts judicial reviews of children who have been in placement 18 months. Last year, 350 children were reviewed by our judicial officers. The Delaware Task Force on Permanency Planning, part of a national project of the National Council of Juvenile and Family Court Judges, has been working since 1984 to ensure permanency planning for foster children in foster homes, mental health facilities, and juvenile detention facilities. This task force, which was funded by the Office of Juvenile Justice, Delinquency and Prevention, has trained our judiciary, our legislators, social workers, department heads, volunteers, and foster families, on issues relating to Public Law 96-272. We have lobbied our State legislature for funding for a foster-care coordinator, for increased pay rates to our foster parents in group homes, and most recently for funds to provide for the downsizing of our juvenile detention facility, and the startup of community-based options. This task force will conclude in September of 1988.

In the last year, Delaware's Department of Services to children, youth, and their families, implemented the Family Preservation Project which was funded partly by the Edna McConnell Clark

Foundation, and partly by the Department of Health and Human Services, designed to prevent placement by providing a social worker, on call, 24-hours a day, to families in crisis. This project is unique, in that it enlisted the help of the community to write the program development, the staff development, law, policy, and structure, and to begin a community awareness campaign. Currently, there are 100 families, statewide, in this project, and during our next fiscal year we anticipate expanding to include another 100 families, statewide. This is a true example of a public and private partnership that has worked.

Statistics in Delaware clearly show that the number of reported calls to our abuse and neglect hotline over the past three fiscal years has steadily decreased from 4,484 in fiscal year 1985 to 4,026 in fiscal year 1987. However, the number of cases actually involving child abuse and neglect has increased from 1,782 in fiscal year 1985 to 1,819 in fiscal year 1987. The past three fiscal years also shows that the primary reasons for entry into foster care were the unwillingness and inability of the natural parents to provide care.

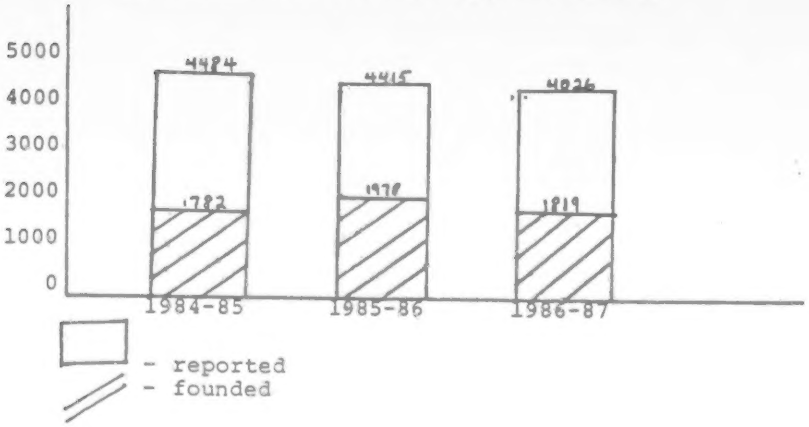
Delaware's needs for the future require a closer look at permanency planning for foster children, and our child mental health and juvenile justice systems. Because these children are teens, it is critical to resolve family conflicts prior to placement, as it will have a greater payoff than any intervention after the child enters care. Concurrent with trying to work on whatever permanency planning goals might be appropriate, we should prepare out teens for independence. We must give them the tools to cope with the world, which they are not equipped to face alone.

Permanency planning for foster children, and our child mental health and juvenile justice systems, must be closely examined by professionals in conjunction with the internal reviews currently in place in the Department of Services to children, youth, and their families. More family court judges should follow the lead of our Chief Judge, Robert D. Thompson, and periodically review the placement of juveniles that they commit to our detention facility. Working closely with Prof. Ira Schwartz of the University of Michigan School of Social Work, our children's department plans to downsize our detention facility, and to provide community-based alternatives to incarceration. Community-based programs will provide foster children in the juvenile justice system with the necessary tools to cope with the serious problems confronting them.

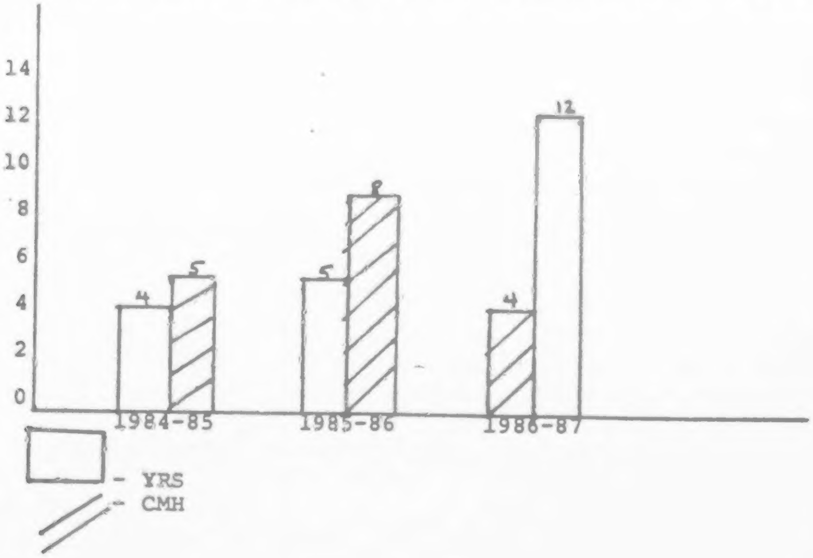
In Delaware, we are extremely proud of the initiatives to help our abused and neglected children. Like most of our sister States, we are just scratching the surface in our battle to improve the lot of these children who are so victimized. We need to expand the efforts already begun to monitor, carefully, the programs that we have, and to expand our reviews of all children in foster care. Thank you.

[Attachments to the statement follow:]

Total Number of Abuse and Neglect Calls:
Figures for both Reported and Founded Abuse
in Fiscal 1984-85; 1985-86; and 1986-87



Total Number of Children in Foster Care:
Figures for both Youth Rehabilitative Services (YRS) and
Child Mental Health (CMH) in Fiscal 1984-85;1985-86; and 1986-87



Age at Entry:
All Children Reviewed, 1983-1986

	1983-84		1984-85		1985-86	
Age at Entry	#	%	#	%	#	%
Birth-4	185	44.3	185	42.9	175	41.1
5-9	92	22.0	98	22.7	88	20.7
10-14	107	25.6	101	23.4	104	24.4
15-17	34	8.1	47	10.9	59	13.9

Time Spent in Foster Care:
Children in Care on June 30, 1983;
June 30, 1984; June 30, 1985; and June 30, 1986

Percent of All Children Continuing in Care on:

	6/30/83	6/30/84	6/30/85	6/30/86
Years				
0 - .9	21.4	19.9	16.7	20.3
1.0 - 2.4	21.1	23.5	32.7	30.2
2.5 - 7.4	26.1	27.5	30.2	32.1
7.5 and over	31.1	29.0	20.3	17.4

Percent of Children Exiting Care by Time in Care: Children Exiting Care in Fiscal 1983-84; 1984-85; and 1985-86

Time in Care (Years)	Percent of Children Exiting Care in: 1983-84	1984-85	1985-86
0 - 0.9	23.3	26.0	34.7
1.0 - 2.4	33.6	37.3	30.6
2.5 - 7.4	22.6	18.7	23.1
7.5 and over	20.6	18.0	11.6

Reasons for Exit from Foster Care: Children Exiting from Care in Fiscal 1983-84;1984-85; and 1985-86

Children Exiting in:

Reason for Exit	1983-84		1984-85		1985-86	
	Number	Percent	Number	Percent	Number	Percent
Return Home	83	56.8	75	50.0	49	40.2
Relative Placement	6	4.1	16	10.7	12	9.8
Adoption	13	8.9	17	11.3	23	18.6
Majority	40	27.4	37	24.7	34	27.9
Other	4	2.7	5	3.3	4	3.3
Total	146	100.0	150	100.0	122	100.0

Selected Reasons for Entry into Foster Care:
All Children Reviewed, 1983-84, 1984-85, and 1985-86

	Percent of All Children Reviewed*		
	1983-84	1984-85	1985-86
Reason for Entry			
Housing	13.2	12.1	14.7
Physical Abuse	15.6	14.6	14.2
Sexual Abuse	8.4	10.4	12.5
Drug Use by Parent	9.6	11.4	10.9
Incarcerated Parent	5.7	9.5	12.0
Voluntary Placement	21.3	18.3	20.2
Unable to Provide Care	42.1	36.2	43.3
Physically Unable to Provide Care	14.4	11.1	12.0
Mentally Unable to Provide Care	10.8	12.3	12.8
Unwilling to Provide Care	24.6	26.7	25.3
Child/Parent Conflict	9.3	10.2	10.4
Child's Behavior	12.2	12.3	13.0

* Children for whom reasons for entry data were not available are excluded from this table.

Gender, Race and Age Characteristics: Children Exiting Care During Fiscal 1985-86

Gender	Number	Percent
Male	65	52.9
Female	58	47.2
Race		
White	72	60.0
Black	43	35.8
Other	5	4.2
Age		
Birth - 4	28	23.0
5 - 9	24	19.7
10 - 14	20	16.4
15 - 17	18	14.8
18 and over	32	26.2

Race, Gender and Age Characteristics of Children Continuing in Care on June 30, 1986

Race	Number	Percent
White	113	36.9
Black	186	60.8
Other	7	2.3
Gender		
Male	167	54.4
Female	140	45.6
Age		
Birth-4	56	18.3
5-9	58	19.0
10-14	69	22.6
15-17	113	36.9
18 and over	10	3.4
Age at Entry		
Birth-4	124	40.4
5-9	69	22.5
10-14	82	26.7
15-17	32	10.4

Acting Chairman **Downey**. Thank you. You should be proud of the work of the Junior League in Delaware. Those are impressive statistics. Maybe we can make sure that all the Junior Leagues across the Nation are similarly organized. We could encourage some of the other States' organizations to get active.

I want to, first of all, thank you all for the testimony that you have presented here this afternoon. You come from different parts of the country but, I think, share a mutual commitment to these children, and, without embellishing the fine testimony that you have already given, I believe that the impact of today's hearings on the members who have been here, and the members we will talk to will be profound. I certainly hope so.

George and I were discussing during the period that some of you were testifying, that if we could only get all our colleagues to listen, and to visit, and to see the plight of these children, we would have absolutely no trouble changing laws and providing money.

But I am afraid, frankly, that money is not simply our only problem here. Given some of the testimony that we have heard, it is going to be hard to convince people, Members of Congress, to provide money to programs where they do not know where the children are. That hardly commends itself for greater resource allocations, even though resources are a part of the problem, and we understand that here.

We are going to have hearings again on April the 28th, where we are going to listen to the lost souls of the administration. I suppose that we have to do that.

Clearly, the National Government needs to set the tone, not sit in silence while America's children suffer, which is what this administration has done, for the most part.

And we will probably make some field visits, possibly here, in the District of Columbia, possibly to some of your States. We have not set that agenda yet, but we intend to leave the hallowed halls of the House of Representatives to spend some time in the paint-scarred walls where these children live existences too deep in the circles of hell.

Thank you, again, for your testimony. George.

Chairman **Miller**. Let me also thank you for your testimony.

One of the common threads that runs through here, in terms that are different from this morning's panel, is that, in each of these States, there was a very conscious decision to get the caseload under control in terms of management; not that you have succeeded all the way, but I am somewhat familiar, certainly, with what is going on in Maryland.

In Maryland it appears that there was a very conscious decision to design the system around, not the child, but the family in crisis. You are now looking at your intensive services program, where you are acting more like a physician, you are starting to write a prescription for the entire family.

Somebody may need AA, the child may need some mental health, and somebody else may need respite care. But you are starting to look at it in terms of the needs of that unit, and getting the resources there, instead of trying to get members of the family to run around and plug themselves into different systems.

I think Delaware, Nebraska, and Maryland also, are overlaying some kind of citizen participation here.

I think that when we wrote the law we had greater hopes that the judicial system would spend time to sort this out. They have had all the same resource problems that the system that they are supposed to oversee does. The CASA program, or these other programs, are bringing in individuals who not only have an interest, but also very often have some political influence, where their husbands or their spouses, have influence within that jurisdiction, and you start to get a little bit of a different response.

The problem is that is a hard one to mandate at the Federal level, you know, mandating citizen participation.

Acting Chairman **Downey**. We could press the Junior League into service, but it would be hard to do nationally.

Chairman **Miller**. Like taking over the National Guard.

Ms. **Graham**. Excuse me, Mr. Chairman.

Chairman **Miller**. Yes?

Ms. **Graham**. Couldn't you mandate citizen review boards?

Chairman **Miller**. The problem seems that rather than that being something that is generated for the purposes of overseeing, it just becomes part of the system, which starts to become perfunctory. My wife serves on the mental health advisory committee in our county, and it is a hard struggle not to be sucked right into the system. As one of you pointed out, you published your annual report and nobody wants to talk to you.

And so it is the same notion that you do not have autonomy. Now when the Governor says "I want a citizens review board, and this is a priority with me," that may be different. But it is one of the troublesome notions of us legislating and mandating citizen review as opposed to it, in a sense, being somewhat spontaneous, or locally contrived to overwatch a system, which that community, State or county has decided is unacceptable.

Most of the reforms in foster care started out because a local group of people became outraged. You know, unfortunately, in New York, small groups of people do not get to affect a great population, but even the death of the young girl there a couple of months ago started to stimulate the notion that we cannot accept this in our own community.

Now that may be easier in parts of my State, or parts of Nebraska or Delaware, but if you look at the history of this, that has brought about an awful lot of reform, or compliance with——

Ms. **Stitt**. I would like to say one thing. In Nebraska, a citizen review attached to the agency or the courts would have been dead in the water, and it was very important for our particular agency, and our particular State, historically, to be separate, because that is really where the strongest problem-solving began.

We had no idea how problematic or how many problems we would find in the legal system, and at one point, that is where they wanted to put the citizen review board. And, with the current makeup, for us to criticize them would have been suicide. The board would have been gone.

So there are even components within the citizen review that have really played out, I think, to be quite important, and, nationally, that would be very difficult I think.

Chairman **Miller**. I would just like you to give some thought to it because obviously, again, we are talking about both compliance with the law and, in some cases, reform; but the question is, how we generate that?

I think in Maryland you are fairly comfortable, and you may be very comfortable in Nebraska at this point. A big part of the problem is not in either one of those States, with all due respect. The question is, how do we build that kind of model?

Mr. **Cooper**. I wonder if there could not be grants for development, or some kind of funding for external review that was an incentive beyond just funding for, you know, matching funds for administrative costs, for administrative review. Because it certainly seems to be making a difference in terms of the results of the programs, and whether the reviews are meaningful or not.

Chairman **Miller**. The statistics that you put before the committee were the statistics that we were anticipating when we wrote the law. They were shared fairly wide across the nation for the first couple of years. Then, whether it was an increase in cases or a reduction in resources, somehow, they started to get reversed on us.

Mr. **Cooper**. The national data base projects are important, too, because we need to know better what States are doing. We had to claw and scratch to get the resources—we made it but it was not easy—to get the resources to be able to do these statistics. A lot of social agencies just cannot get their hands on the expertise, or computers, or whatever they need.

Acting Chairman **Downey**. George, would you yield.

Chairman **Miller**. Yes.

Acting Chairman **Downey**. Is there a nationwide group of foster care advocates and agencies? Do you not meet on a regular basis to exchange ideas about programs?

Ms. **Stitt**. Yes. There is a national association of foster care reviewers, and right now we are working on a national data base for the States that have citizen review, as well as the barrier sheet that the Maryland president talked about, to take a look at some of those issues. Maryland and Nebraska plan on working jointly on that, because I think at this time we keep the most data, the two States.

Mr. **Vancza**. I would like to add, since Arizona has had the first statewide foster care review board system, and, in fact, when Barbara Chappel had her experience with the first system in—I believe it was South Carolina—we invited her to come over, and the Arizona model has been used throughout the Nation.

I think we need to recognize that foster care review is a bandaid. It really is. We have created a different system, a new piece to the system, to monitor a system that does not work well.

And the same thing is true of the counselor program, not that we do not need them, but we need to recognize their limitations, and they only work as well as that judge in that county allows it to work, and that can be very uneven in a State.

And, in Arizona, we have, I would say, probably one of the best-working foster care review board systems around, but it is always changing, and it is uneven. You may have a judge who does not understand the time that went into this review, and the number of people.

We have lots of folks that come to our reviews, but we need to recognize the limitations of that system. Until we really look at the structure, why it is the caseworkers do not make good decisions, we will never have enough people in the foster care review board system, or CASA, to monitor what is wrong with the system over here.

Acting Chairman DOWNEY. I think you have really put your finger on it here. Why is it that Maryland can do a better job? I mean, obviously, you have a big city, you have got Baltimore, that you have to be concerned about. It is not the scope of the problem in New York or in Los Angeles.

Mr. COOPER. It was 5000 at one time.

Acting Chairman DOWNEY. But that is a lot of cases. Why, for instance, did the Junior League suddenly decide that this was an issue that they wanted to be involved with in Delaware?

Ms. MAGUIRE. We were asked by our family court judges to conduct a Children in Placement Project, which was being sponsored by the National Council of Juvenile and Family Court judges.

In examining the data, we came up with Jenny, our model that I spoke about in here. And, really, it was also a part of a national effort on the Junior League at that time. It went back to the International Year of the Child, and we really looked at other programs across the country.

Acting Chairman DOWNEY. Well, here you have this conundrum where the law is in place, there is money coming, and in some States you do a good job. You may not be completely satisfied with the job that you are doing, but you are doing a better job, let's say, than another State.

So it is not simply a question of money being applied in the form of grants here. I am not reluctant to provide more money. I think we need to do a lot more for children, and we are starting to explore some innovative approaches to what we can do for all children who are poor and who are in foster care.

But it is not a question only of resources because I think you are going to begin to see more and more of a prioritization in terms of what we need to do as a Government to be more nurturing, more understanding and more caring. That will happen. It may not this particular year, but it will in the immediate future.

The problem here is very different, I believe. It is not simply a question of money because some States do a good job and other States do not.

And some States have a handle on their cases and some States do not. Is that wrong? Am I misreading this?

If I am, let me know.

Ms. ZALKIND. If I may respond, and probably not directly to your question, but I think in our State we do have a review system that has been in existence, preceded the Federal law in fact.

Some may question whether that review system, that very review system has become as much of a bureaucracy as our State agency has.

I think what is lacking, and has traditionally been lacking, is some leadership—certainly on the State level—for children in foster care. They really do remain a hidden group of children.

It looked like we were getting to some focus on children in foster care before New Jersey, like many other States, had the explosion in child abuse and neglect reporting. Once again, attention is focused to protection, not to children in foster care, and I think in our adoption project, one of the strengths of our ABA project was the leadership on all levels.

We involved our court system in that, our review system, the legal system, those who represented the agency and parents, and our State administrative agency.

We got all those strong leaders involved who acknowledged their piece of the process and what they could do about it, and got to talking about implementation. I think it was very successful, but the leadership needs to be there.

Acting Chairman **DOWNEY**. Well, our committee is in the process, with Senator Moynihan, of providing grades for child support enforcement around the country. We are going to publicize the winners and the losers, and I think maybe one of our ideas from this is that maybe we need to do as well a grading program for foster care, and give the States a mark.

And I will talk with Senator Moynihan, and Mr. Miller's staff and our staff will coordinate, and begin the process of collecting some of the statistics. So maybe we can at least embarrass the States that have not done a good job into doing more, and at least to hold up as examples to be applauded, those that do.

But what you really need is a Governor who is going to say "Not in my State. This is not going to happen in my State." And if we can help in some way, we will help.

Mr. **ANDREWS**. Would you yield for just a second.

Acting Chairman **DOWNEY**. Certainly.

Mr. **ANDREWS**. Tom, I think that is a great idea. I mean, what we have learned, as you know, from our hearings on child support, is how startling the statistics really are as to who is doing a good job and who is doing a poor job.

It is shocking to know the States that are doing the worse, and I think you, the lady, our witness really hit it right on the head. This issue of foster care is sort of a hidden issue, and maybe a grading system, if it is possible to come up with some kind of criteria, could help.

Acting Chairman **DOWNEY**. Hidden no longer.

Mr. **COOPER**. We would certainly be willing to help.

Acting Chairman **DOWNEY**. I do not know that we would want the pupils involved in providing their own grades, but we appreciate the offer. [Laughter.]

I want to thank the panel. You have been very helpful. The joint committee stands adjourned until April 28 when we convene next.

[Whereupon, at 2:55 p.m., the joint committees adjourned, subject to the call of the Chair.]

CHILD WELFARE, FOSTER CARE, AND ADOPTION ASSISTANCE

THURSDAY, APRIL 28, 1988

HOUSE OF REPRESENTATIVES, COMMITTEE ON WAYS AND MEANS, SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION, JOINTLY WITH THE SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES,

Washington, DC.

The committees met, pursuant to call, at 10:30 a.m., in room B-318, Rayburn House Office Building, Hon. Thomas J. Downey (acting chairman of the Subcommittee on Public Assistance and Unemployment Compensation) and Hon. George Miller (chairman, Select Commitee on Children, Youth, and Families) presiding.

Mrs. KENNELLY [presiding]. I call to order the joint hearing with the Select Committee on Children, Youth, and Families on the child welfare services, foster care, and adoption assistance reforms.

I will begin by reading a statement by Mr. Downey, the acting chairman of the Subcommittee on Public Assistance and Unemployment Compensation. [Reading:]

Today is our second day of joint hearings with the Select Committee on Children, Youth, and Families on child welfare, foster care, and adoption assistance issues.

At our last hearing, we heard testimony from foster children, foster parents, legal advocates, statewide child advocate organizations, local child welfare case workers, and representatives of foster care citizen review boards.

Today we will begin our hearings with a panel of State and local program administrators. These administrators manage State and local funds, establish and recommend policies and implement the requirements of Federal grant-in-aid programs for child welfare, foster care, and adoption assistance.

The second panel today will include representatives from the legal community. States have the basic legal responsibility for responding to children in need of protection from harm or neglect. How judges, prosecutors and private attorneys see their responsibilities and how they interact with the child welfare agencies is a very important part of the child welfare and foster care systems.

The third panel of witnesses today will include representatives of private nonprofit child welfare and adoption organizations. Private social service agencies are often the "front line" of the child welfare system, providing both preventive and protective services to children and their families.

Finally, I would like to announce that the third and final day of our joint hearings will be held on May 12, 1988, at which time we will hear testimony from the Department of Health and Human Services and other witnesses' suggestions for the future of the child welfare system. [Ends reading.]

I will request that the committees allow me to put my own statement in the record in its entirety.

[The statement of Mrs. Kennelly follows:]

Statement of Hon. Barbara B. Kennelly

Mr. Chairman, we have been talking about the family for years. But these hearings will show that there is still much to be done to protect our children and maintain our families. It's time we renew our efforts to tackle the problems of broken families and neglected kids.

Our last major effort was in 1980, when we passed the child welfare amendments. We looked around and saw that there wasn't enough help out there for families in trouble. We made a commitment to create a way to reach these people. Have we kept our commitment? I think not. We let these programs be underfunded. They have suffered from real cuts in 1981 and have not made up for it.

I have introduced a bill that will keep our promise to neglected children and families in need. This bill will increase funding for the Social Services Block Grant by $600 million. The Social Services Block Grant is the pivotal Federal source of funds to States for providing services to America's most vulnerable citizens: children, the elderly, the poor and the disabled. The funding increase will make an important difference for all these groups. I know they will be well spent on foster care and especially for preventive services to keep kids out of foster care.

Let's honor our commitment to our nation's families—let's increase Title XX funding and protect our children who are our future.

Mrs. Kennelly. I am very glad to be here today. As we know, we have talked about families over the years. To some people, it is a lot of talk and not too much action. Of course, the Public Assistance subcommittee and the Select Committee on Children have been serious in this effort.

The last time we were able to pass comprehensive legislation for our children in this country was 1980. The child welfare amendments made changes to greatly benefit our system of child welfare and foster care. After they were passed, we had the onslaught of the 1981 cuts.

Unfortunately, the children of this country never recovered from these cuts. We know there is much more we have to do now, not just talk. We have to protect our children and guarantee that we can maintain our families, all families.

So we come here today, of course, to the Public Assistance Subcommittee, very aware that there is one program that does absolutely work, and that is title XX, the social services block grant. Title XX gives support to those most in need in this country, the children, the handicapped, the elderly, but particularly the children. That is why it is so important that we hold these hearings. We know what has to be done and it helps to hear from those who have experienced, as Tom Downey calls it, the front line.

I call the first panel, please. Our first panel consists of C. Patrick Babcock, director of the Michigan Department of Social Services—who is not here. He is stuck at the airport in Detroit and will be unable to make the hearing.

Michael Weber, director of social services, Minnesota Department of Community Services, Hennepin County, Minn.; and Monna

Hurst, director of the northern Virginia regional office, Virginia Department of Social Services.

Ms. Hurst, would you like to begin?

STATEMENT OF MONNA L. HURST, DIRECTOR, NORTHERN VIRGINIA REGIONAL OFFICE, VIRGINIA DEPARTMENT OF SOCIAL SERVICES

Ms. HURST. Good morning. Our testimony today will address the impact of Public Law 96-272 on children and foster care in Virginia. We would like to take the opportunity to suggest ways that the law might be improved, as well as some of the benefits of the law to better serve the needs of the children, not only in Virginia but throughout the Nation.

We definitely see a lot of benefits in the current law, the primary benefit being that it mandates prevention services to children prior to entering foster care. We in Virginia have found that mandate strengthening our efforts in the area, as you mentioned, of going towards family-based services.

The law has increased the level of accountability for tracking and providing reunification services and applying other strategies to effect permanency in children's lives. The law has significantly reduced the number of children drifting in foster care without the comprehensive case planning or the judicial review which is designed to determine the outcome of services provided.

This review requirement has helped more children move towards the goal of return home or other permanent placement.

In Virginia, we have committed to studying the characteristics of the children in foster care over the last 10 years. We have a report that we would like to mail to each member of the committee as a followup to that.

Basically, the children exhibit more emotional and behavioral problems, more parent-child conflict and more substance abuse. Increased numbers of children are entering care as delinquents. If not entering as delinquent, they are entering as being determined as children in need of services.

We have two factors in Virginia that are part of a movement to deinstitutionalize children. These deinstitutionalizations are occurring primarily with juvenile corrections and the mental health community. Ending in 1985, the children entering foster care have consistently been older. All of those factors with deinstitutionalization of the older child have led to a need of increased use of residential care.

Those provisions and those types of services are more expensive. We see several areas over the last 8 years of Public Law 96-272 that become barriers to the intent of the law. One barrier would be the duplication of the documentation of the case records or the large amount of paperwork.

We see it as a duplication that is taking up the direct time available to provide services, to document the services. Workflow simplification is definitely an immediate need and has been for years.

We also have identified the barrier to effectively comply with the law requires the development of increased services in the areas of prevention, rehabilitation, and reunification. The resources for these requirements have not kept up with the need. Implementation of the law has not provided for the incentives that are needed for the juvenile courts and the mental health community to coordinate policies, procedures, and services to increase our State's compliance efforts.

Virginia's experience during the compliance review by the Department of Health and Human Services has been frustrating at best. We have experienced the inconsistency in review standards and procedures from review to review. We are aware that standards for compliance have varied from State to State and from year to year.

After 8 years with the passage of this legislation, HHS still has no published review criteria to assist States for coming into compliance, a simple guide of minimum acceptable standards.

The Federal reviews have narrowly focused on technical compliance and have ignored the issues of effective service provisions. For example, if prevention of foster care prior to placement has been successful when the case sample is selected, the cases that have been successful in prevention are not part of the documentation in the review.

Also in Virginia, we recommend improvements, and we have a few of those. We would like to recommend that HHS publish this review criteria for all States to use simultaneously. Changes to the criteria should be distributed and published in advance of their implementation dates.

Many of us who work in the field on a daily basis would like to see a number of days established there, 120 days, 180 days. A process should be established to bring consistency to policy interpretations, both from Federal region to Federal region and over time.

Mandates that enhance both the court and mental health's involvement in the full implementation of the law need to be established. Revisions in the law or its interpretations are needed to make it more accommodating to State laws.

In Virginia, for example, we have a current status of permanent planning in foster care based in State law. Funding formulas, we think, need to be modified to support services to all children in foster care regardless of their categorical eligibility. If I am an ADC foster care child, my income is treated differently than if I am not categorically related to foster care.

The Adoption Assistance and Child Welfare Act of 1980 has promoted improved services to children at risk of entering foster care. In Virginia, the Virginia Department of Social Services is the designated agency responsible for administering the program, and we sincerely appreciate the opportunity to speak before this committee on what we believe to be a very good law that can be better.

[The prepared statement follows:]

Testimony For The Select Committee On Children, Youth and Families.
April 28, 1988.

Monna L. Hurst, Regional Director, Northern Virginia Regional Office,
Virginia Department of Social Services.

My testimony today will address the impact of Public Law 96-272 on children in foster care in Virginia. We would like to take this opportunity to suggest ways this law might be improved to better serve the needs of children in Virginia and other states' foster care systems.

BENEFITS

The benefits of this law are:

- The mandate it carries to provide prevention services to children prior to entering foster care which in turn has strengthened Virginia's efforts in the area of family based social services.

- The law has increased the level of accountability for tracking and providing reunification services and applying other strategies to affect permanency in children's lives.

- The law has significantly reduced the number of children "drifting" in foster care without comprehensive case planning and judicial review which is designed to determine the outcome of services provided. This review requirement has helped more children toward the goal of return home or other permanent placement.

CHANGES IN FOSTER CARE CHILDRENS' CHARACTERISTICS

In the 10-year period ending in FY 85 in Virginia, characteristics of children in foster care have changed:

- Children exhibit more emotional and behavioral problems; more parent-child conflict, and more substance abuse.

- Increased numbers of children are entering care as delinquents or having been determined as being children in need of services.

These two factors are in part due to the movement in Virginia toward deinstitutionalization by both Juvenile Corrections and the Mental Health Community.

- In the 10 years ending in FY 85 the children entering foster care have been consistently older.

All of the above factors have led to a need for increased use of residential care and the provision of expensive services.

CURRENT BARRIERS TO IMPLEMENTING P.L. 96-272:

The requirement of P.L. 96-272 create additional work on State and local foster care staff. Much of this additional effort is in the form of paperwork as opposed to direct services to children and their families. This paperwork burden is inherent in the laws' intent to increase accountability. In this time of reductions in Federal and State resources for social services, the increased administrative burden has taken resources from other program areas.

To effectively comply with his law requires the development of increased services in the areas of prevention, rehabilitation and reunification. The resources for these requirements have not kept up with the need.

Implementation of this law has not provided incentives to both juvenile courts and the mental health community to coordinate policies, procedures and services to increase this State's compliance efforts.

BEST AVAILABLE COPY

Virginia's experience during compliance reviews by the Department of Health and Human Services has been frustrating at best. We have experienced inconsistency in review standards and procedures from review to review. We are aware that standards for compliance have varied from State to State and year to year.

There are, 8 years after the passage of this legislation, still no published review criteria to assist states in coming into compliance.

Policy interpretations and notification of policy changes have come long after their scheduled implementation dates.

The federal reviews have narrowly focused on technical compliance and have ignored issues of effective service provision.

SUGGESTED IMPROVEMENTS

Considering the previously identified barriers to maximize this law's effectiveness for children, the Virginia Department of Social Services recommends the following:

- The Department of Health and Human Services should publish review criteria. Changes to this criteria should be published and distributed in advance of their implementation dates.

  A process should be established to bring consistency to policy interpretation both from federal region to federal region and over time.

  Mandates that enhance both the courts' and mental health's involvement in the full implementation of this law need to be established.

- Revisions in the law or its interpretation are needed to make it more accommodating to State laws that meet the full intent of this legislation. An example being the status of permanent foster care in Virginia.

- Funding formulas need to be modified to support services to all children in foster care regardless of categorical eligibility.

The Adoption assistance and Child Welfare Act of 1980 has promoted improved services to children at risk of entering or in foster care.

As the designated agency in Virginia responsible for administering this program, we sincerely appreciate the opportunity to speak to this Committee on what we believe to be a good law with the potential to be better.

Acting Chairman DOWNEY. Mr. Weber, have you testified?

Mr. WEBER. No, I have not.

Acting Chairman DOWNEY. Please proceed.

STATEMENT OF MICHAEL W. WEBER, DIRECTOR, HENNEPIN COUNTY (MINN.) DEPARTMENT OF COMMUNITY SERVICES

Mr. WEBER. I am Mike Weber, director of the Hennepin County Community Services Department. I am responsible for the public social services agency for Hennepin County, which includes Minneapolis, Minn. Our agency is an umbrella agency, including child welfare services along with mental health, chemical abuse, developmental disabilities, and adult protective services, as well as services for disabled individuals and senior citizens. I am also president-elect of the National Association of Public Child Welfare Administrators, an affiliate of the American Public Welfare Association.

When Congress passed Public Law 96-272 in 1980, it was a reflection of a national recognition that too many children were being needlessly removed from their parental homes and placed in foster care; that children in foster care were too often being neglected by the child welfare system established to protect them; and that too many children remained in foster care because of inadequate efforts to reunite them with their families or to identify adoptive parents willing to provide a permanent family environment.

That act has been successful. Prevention programs have been established, there are increased assurances of adequate care in our foster programs, and reunification and adoption efforts have been intensified.

That has been the good news. There is also the bad news. Not all jurisdictions have implemented the programs proven successful in enabling children to remain with their birth family, and the programs of many jurisdictions are limited to pilot or partial efforts because of lack of funds.

We find an increasing number of abuses, and these were highlighted in your last hearings. Whether this is an increase of awareness or an increase of incidents, it is intolerable.

And finally, too often attention is drawn to the needs of individual foster children only when so much time has passed that reunification or adoption are far too unlikely.

And so, while Public Law 96-272 has brought significant progress, much remains to be done. I appreciate the opportunity to share some observations and thoughts with Members of Congress.

The number of children entering foster care, in Hennepin County as well as nationally, is rising. However, to interpret this as a reversal of the intent of Public Law 96-272 would be a mistake. The number of children in out-of-home placement is not a factor of a single variable. Rather, it is the cumulative result of multiple and conflicting trends.

Initially, the early decline in the number of children in foster care after enactment of Public Law 96-272 included the removal from foster care of many children who were clearly not appropriate for foster care. The increased attention and innovative programming resulting from the act prevented some children from entering foster care.

Such attention and programming also moved out of foster care a number of inadequately-served children which had accumulated over multiple years. Unfortunately for some children, the reduction of the number of children needlessly in foster care was a result of the passage of time; the 12-year-olds about whom you were concerned in 1980 are now 20.

Since this initial impact of the act, the introduction of preventive programs has continued to minimize the number of children in foster care. The Homebuilders Program developed in Washington State and similar programs have been replicated around the country, partially through the technical assistance available through the National Resource Center for Family-Based Services in Iowa.

My department launched a major policy and program redirection in 1986, focusing all of our child welfare staff resources directed toward new client families on intensive in-home services. The Humphrey Institute of the University of Minnesota conducted an evaluation of this in-home service effort, which was methodologically the most significant study of nonrandom assignment of children between placement and in-home services that has been conducted.

This evaluation concluded that our revised programming had statistically significantly both reduced the number of placements and reduced the cost of serving each family. This programming continues, and it continues to serve the vast majority of client families appropriately without placement of children. Prior to this program revision, 4 percent of new client families had children placed. At the end of the evaluation, the placement rate was 2 percent. Our current placement rate is 1.7 percent.

While these trends are minimizing the number of children placed, countertrends are most than offsetting them, resulting in an overall increase in the number of children in placement. I would like to comment on a number of these countertrends.

First, the number of reports of child abuse and neglect continues to increase, and we are identifying more and more children whose safety at home is indeed jeopardized. Because I chaired the committee of the National Association of Public Child Welfare Administrators, an affiliate of the American Public Welfare Association, which developed the "Guidelines for a Model System of Protective Services for Abused and Neglected Children and Their Families," my department is using those very current standards to assure that children are removed from their parental home only if absolutely necessary for their safety.

These child protection reports bring to us children from environments with multiple threats to their safety. During one recent 3-week period, we received 24 children taken into protective custody by police during raids on crack houses. Based on current estimates of warrants to be issued, we may receive custody of over 300 such children during 1988.

Similarly, 2 weeks ago, we received custody of two children whose mother had been murdered about 5 weeks earlier and whose body was discovered by her 8-year-old son. Those children were placed in a shelter facility in which over half of the children in residence had experienced a murder of a friend or someone in their immediate family. Reunification of these families is complex in a way that was not envisioned in 1980.

Second, I would like to address the children of parents who are seriously developmentally delayed. In recent years, society has appropriately moved toward deinstitutionalizing mentally retarded adults. Their behavior is normalized as intended, including sexual activity. Birth control preparation is minimal and results are less than desirable, resulting in pregnancies and births. Often, parental care is not adequate to meet the children's basic needs, much less their developmental needs.

Because the parents are providing to the best of their ability, termination of parental rights will not occur, and situations of long-term neglect with at least periodic placement of children is occurring.

I am proud to note that my department this month is launching a new specialized program of in-home support to serve families in which neglect has been substantiated and in which mental retardation is a significant factor.

Third, there is an astounding increase in the number of seriously mentally ill children in our society. While we remain committed to meeting the needs of these children within their families, often these children become part of the foster care program. Many of them have developed such extreme hostility within their families that even after their psychiatric disturbance has been effectively treated, return to their parental home is not an option.

For them, foster care is the only alternative to homelessness. Other such mentally ill children enter the public foster care system as a result of inadequate health insurance coverage. They often are admitted to psychiatric hospital units, but are discharged unable to return to their families, and the discharge occurs coincident with the expiration of medical insurance coverage.

Fourth, I would like to mention the children who have been adopted but later are no longer wanted by their adoptive families—there is further discussion in my written testimony.

As you review foster care statistics, then, I would urge that you not view the number of children in foster placement as a single trend and that you insist that those of us in the administration of foster care programs provide you with greater analytical data regarding the reasons for foster placements, recommendation 3.

This increased analysis would demonstrate emphatically that foster children are not a homogeneous group; they include abused children who cannot safely return to their families at this time; they include children who are wards of the State awaiting adoption, only some of whom are likely to be adopted; and they include children with supportive families who cannot meet their needs within the family structure, because of serious mental illness, severe developmental delays or chemical abuse.

As my final comment in this section on trends, I would call your attention to homeless children. In this decade, for the first time in over a century, we have created a large number of homeless, familyless children. Child welfare policy must now explicitly go beyond in-home family services and foster programs to also include categorical attention to homeless youth, recommendation 4.

If we recognize that, although our efforts at prevention and reunification have been successful, the number of children still increases in foster care, we must direct our attention to the number of children who are in foster care and assure that their experience in foster care is not what we would consider abusive or neglectful if provided by birth or adoptive parents. We are seeing a difficulty in recruiting an adequate number of foster homes.

While Public Law 96-272 urges that children be placed in family-like settings, the experience of more children in family settings contraindicates a family-like foster placement initially. For many children coming into foster care, placement in a nonfamilial institutional shelter appears to make them notably relaxed.

In a number of the children coming into shelter out of "crack" houses, we note a marked level of comfort as they learn they will be remaining in an institutional setting rather than a family setting, which carries all of the overtones they have experienced.

Another issue that relates to the adequacy of care for children who must remain in foster care, because this is the most appropriate program our society can offer children, is the cost of providing care. We cannot permit the expense of providing adequate foster care to be inadequately reimbursed.

In Minnesota, the rate for taking care of a child 10 years old is $295 a month. The average day care rate is $80 to $100 a week. An informal telephone survey I conducted last week informed me that the cost of kenneling a dog in the Twin City area is $10 to $12 a day. While we must be able to recruit foster families interested in serving children and not recruiting money, we also want to assure that foster children need not be raised in poverty conditions.

Let me address the question of reasonable efforts. Public Law 96-272 requires that child welfare agencies extend reasonable efforts to make it possible for each foster child to return home. The interpretation of what constitutes "reasonable efforts" has not been contested as extensively as I had expected.

Courtroom disputes regarding the adequacy of these efforts have not been commonplace or a problem in Hennepin County. I suspect that this will change as a result of recent Minnesota legislation which shifts the burden of proof in termination of parental right actions onto parents after 12 months in placement if the agency has made reasonable efforts toward reunification.

But apart from court interpretation, we as professionals must ask ourselves whether our efforts are reasonable. I fear that our honest response would be that our efforts are reasonable in relation to funding available, but not in relation to our knowledge of effective programming.

If our society is to avoid children unnecessarily remaining in foster care, Federal, State, and local funding must permit the availability of professionally respectable foster resources and staff resources intensive enough to foster reunification at the fastest pace which will meet the child's and family's needs, recommendation 6.

In spite of reunification and prevention efforts, there will be children in long-term foster care until they reach the age of majority. We as a society must raise and nurture these children. To fulfill this commitment will require the development and funding of new styles of foster care.

I have already commented on the fact that much of our foster care must not be family-like in setting, but institutional in setting and these institutional settings must be only mildly structured.

Many of these children have been through many treatment programs. They understand treatment methodologies, but do not have independent living skills.

We find a refusal on the part of many adolescents to enter into an institutional shelter even if they must resort to a street life of tolerating violence and surviving through prostitution.

For these long-term foster children, our funding and licensing requirements must permit group homes modeled on college dormitories rather than on structured treatment programs.

For some of these children, your committees and Congress recognized one very critical need in the Independent Living Program. This program, as it was established, has met the needs of many of the children graduating from foster care.

However, it is still inadequate. My department is currently conducting a study of homeless adults, in cooperation with the Institute on Poverty at the University of Wisconsin.

One of the alarming findings reaffirms Chairman Miller's introductory remarks on April 22, 1987 at a hearing on foster care that many of our homeless had been foster children. Our study revealed that 14 percent of those experiencing their first homeless episode identified themselves as graduates of foster care. Of those interviewed who experienced more than one episode of homelessness, 26 percent identified themselves as graduates of foster care.

This figure affirms to me the appropriateness of the 1986 legislation adding Independent Living Programs to the list of services funded under title IV-E and the need for additional appropriations that were provided while so many other programs where being reduced.

My written testimony does include some comments about HHS oversight and the audits, which you are encouraged to look.

Let me conclude by indicating that Public Law 96-272 was successful. The reunification, prevention and the adoption efforts have been successful. In spite of these efforts, some children will remain in foster care. We must direct our attention toward those children, appropriately serving them and preparing them as adults.

I would emphasize the need for additional social service block grant funding, as Mrs. Kennelly indicated in her earlier remarks, as well as the need for extended funding for the Independent Living Program, which is before Congress.

[The statement of Mr. Weber follows:]

STATEMENT OF MICHAEL W. WEBER, DIRECTOR, HENNEPIN COUNTY COMMUNITY SERVICES DEPARTMENT

I am Michael Weber, Director of the Hennepin County Community Services Department. I am responsible for the public social services agency for Hennepin County, which includes Minneapolis, Minnesota. Our agency is an umbrella agency, including child welfare services, along with mental health, chemical abuse, developmental disabilities, and adult protective services as well as services for disabled individuals and senior citizens. I am also President-elect of the National Association of Public Child Welfare Administrators, an affiliate of the American Public Welfare Association.

INTRODUCTION

When Congress passed Public Law 96-272 in 1980, it was a reflection of a national recognition that too many children were being needlessly removed from their parental homes and placed in foster care; that children in foster care were too often being neglected by the child welfare system established to protect them; and that too many children remained in foster care because of inadequate efforts to reunite them with their families or to identify adoptive parents willing to provide a permanent family environment. That Act has been successful--prevention programs have been established, there are increased assurances of adequate care in our foster programs, and reunification and adoption efforts have been intensified. Congress has also made it clear that the Act was more than just a token of interest in foster children. Funding was provided with the Act; funds for the Act were increased when most other federal social service programs were being decreased; necessary additions have been made to the Act, such as the 1986 provision for Independent Living Programs; and the House Select Committee on Children and Youth has continued to focus attention on foster children, just as Representative Pepper's Select Committee on Aging has focused attention on our senior citizens. That's been the good news.

There is also the bad news. Not all jurisdictions have implemented the programs proven successful in enabling children to remain with their birth family, and the programs of many jurisdictions are limited to pilot or partial efforts because of lack of funds. The number of reports of abuse in foster programs continues to climb (although it is unclear whether this reflects an increase in the incidence or in the awareness of and response to abuse) and children too often drift from foster home to foster home. This problem was highlighted in the testimony of foster children in your last hearing. And finally, too often attention is drawn to the needs of individual foster children only when so much time has passed that reunification or adoption are far too unlikely.

And so, while P.L. 96-272 has brought significant progress, much remains to be done. I appreciate the opportunity to share some observations and thoughts with members of Congress.

TRENDS

The number of children entering foster care--in Hennepin County as well as nationally--is rising. However, to interpret this as a reversal of the intent of P.L. 96-272 would be a mistake. The number of children in out-of-home placement is not a factor of a single variable. Rather, it is the cumulative result of multiple and conflicting trends.

Initially, the early decline in the number of children in foster care after enactment of P.L. 96-272 included the removal from foster care of many children who were clearly not appropriate for foster care. The increased attention and innovative programming resulting from the Act prevented some children from entering foster care. Such attention and programming also moved out of foster care a number of inadequately served children which had accumulated over multiple years. Unfortunately, for some children, the reduction of the number of children needlessly in foster care was a result of the passage of time--the 12 year olds about whom you were concerned in 1980 are now 20.

Since this initial impact of the Act, the introduction of preventive programs has continued to minimize the number of children in foster care. The Homebuilders Program developed in Washington State and similar programs had been replicated throughout the country, partially through the technical assistance available through the National Resource Center for Family Based Services in Iowa. My Department launched a major policy and program redirection in 1986, focusing all of our Child Welfare staff resources directed toward new client families on intensive in-home services. The Humphrey Institute of the University of Minnesota conducted an evaluation of this in-home service effort, which was methodologically the most significant study of non-random assignment of children between placement and in-home services that has been conducted. This evaluation concluded that our revised programming had statistically significantly both reduced the number of placements and reduced the cost of serving each family. This programming continues and it continues to serve the vast majority of client families appropriately without placement of children. Prior to this program revision, 4 percent of new client families had children placed. At the end of the evaluation, the placement rate was 2 percent. Our current placement rate is 1.7 percent.

While these trends are minimizing the number of children placed, counter trends are more than offsetting them, resulting an overall increase in the number of children in placement. I would like to comment on a number of these counter trends.

First, the number of reports of child abuse and neglect continues to increase, and we are identifying more and more children whose safety at home is indeed jeopardized. Because I chaired the committee of the National Association of Public Child Welfare Administrators (an affiliate of the American Public Welfare Association) which developed the Guidelines for a Model System of Protective Services for Abused and Neglected Children and Their Families, my Department is using those very current standards to assure that children are removed from their parental home only if absolutely necessary for their safety. These child protection reports bring to us children from environments with multiple threats to their safety. During one recent three-week period, we received 24 children taken into protective custody by police during raids on "crack" houses. Based on current estimates of warrants to be issued, we may receive custody of over 300 such children during 1988. Similarly, two weeks ago we received custody of two children whose mother had been murdered and whose body was discovered five weeks later by her eight-year-old son. Those children were placed in a shelter facility in which over half of the children in residence had experienced a murder of a friend or in their immediate family. Reunification of these families is complex in a way that was not envisioned in 1980. Long histories of violence, child custody hearings intertwined with criminal proceedings, and extremely non-traditional family structures were patterns encountered far less frequently in 1980. These factors, along with delays in abuse or neglect proceedings before the Juvenile Court, make compliance with the court review provisions of P.L. 96-272 extremely difficult to meet.

Secondly, I would like to address the children of parents who are seriously developmentally delayed. In recent years society has appropriately moved toward deinstitutionalizing mentally retarded adults. Their behavior is normalized as intended, including sexual activity. Birth control preparation is minimal and results are less than desirable, resulting in pregnancies and births. Often parental care is not adequate to meet the children's basic needs, much less their developmental needs. Because the parents are providing to the best of their ability, termination of parental rights will not occur, and situations of long-term neglect with at least periodic placement of children is occurring. I am proud to note that my Department this month is launching a new specialized program of in-home support to serve families in which neglect has been substantiated and in which mental retardation is a significant factor.

Thirdly, there is an astounding increase in the number of seriously mentally ill children in our society. While we remain committed to meeting the needs of these children within their families, often these children become part of the foster care program. Many of them have developed such extreme hostility within their families that even after the psychiatric disturbance has been effectively treated, return to their parental home is not an option. For them, foster care is the only alternative to homelessness. Other such mentally ill children enter the public foster care system as a result of inadequate health insurance coverage. They often are admitted to psychiatric hospital units, but are discharged unable to return to their families--and the discharge occurs coincident with the expiration of medical insurance coverage.

Fourthly, I would like to discuss the children who have been adopted but later are no longer wanted by their adoptive families. Raising every child has its difficulties, particularly during adolescence. Just as some birth families cannot maintain their children into adulthood, so some adoptive families cannot. But additional stress on the family integrity occurs because of the adoption itself--hence, the importance of post-adoptive services (Recommendation 1). Even greater family stress may result from the adoption of the special needs children for whom we have intensified our adoptive efforts as a result of P.L. 96-272. Some international adoptions in recent years present even greater risk for future foster placements because of unmet expectations. For example, adoptive families travel to South America anticipating adoption of a seven-year-old child. The option presented to them is a seven year old--with two pre-adolescent siblings who speak no English but are very street wise. The likelihood of such children entering the foster care system is extremely high(Recommendation 2).

As you review foster care statistics, then, I would urge that you not view the number of children in foster placement as a single trend and that you insist that those of us in the administration of foster care programs provide you with greater analytical data regarding the reasons for foster placements(Recommendation 3). This increased analysis would demonstrate emphatically that foster children are not a homogeneous group--they include abused children who cannot safely return to their families at this time; they include children who are wards of the state awaiting adoption--only some of whom are likely to be adopted; and they include children with supportive families who cannot meet their needs within the family structure--because of serious mental illness, severe developmental delays, or chemical abuse.

As my final comment in his section on TRENDS, I would call your attention to homeless children. In this decade, for the first time in over a century, we have created a large number of homeless, family-less children. Child Welfare policy must now explicitly go beyond in-home family services and foster programs to also include categorical attention to homeless youth (Recommendation 4).

FOSTER PROGRAMMING

Foster care must not be seen as negative in itself. We as a society have a responsibility--emphasized in P.L. 96-272--to provide every reasonable effort to support children and families to permit children to remain within their homes and have their needs met. Nevertheless, in spite of these efforts, some children cannot remain with their families safely. For these children--and I trust that my earlier testimony effectively emphasized their heterogeneity--foster care is appropriate. For these children, we must assure that the care they experience in foster care is not what we would conclude to be abusive or neglectful if provided by birth or adoptive parents.

For most children in foster care--as the Act indicates--a family-like setting is most appropriate, yet we are experiencing increasing difficulty recruiting an adequate number of foster homes. Although my Department licensed 133 new homes in 1987, our total number of licensed homes has remained constantly between 600 and 650 since 1983. The shortage of foster homes is primarily a result of demographics--the number of two-parent families, with one parent (historically the mother) not employed, interested in caring for another child, is decreasing. This demographic trend is even more pronounced in urban areas. A home with a single parent or two employed parents often does not have the time or energy for a foster child. Foster care itself will not be perceived as a career if we do not give it professional respect and adequate compensation. Even more basically, we cannot permit the expense of providing foster care to be even partially unreimbursed. We all know what it costs to raise a child, yet in Minnesota the basic foster care rate for a 10 year old is $294 per month. The average center day care rate is $80-100 per week. And a very unsophisticated telephone survey I conducted last weekend informed me that the cost of kenneling a dog in the Twin City area is $10-12 per day.

Although Minnesota is a county-administered system and we negotiate most of our rates for contracted social services, foster care rates are set at the State level because of AFDC regulations requiring that Title IV-E payments be uniform statewide. But differences in demographics, career alternatives available, and cost of living provide a greater supply of foster homes in the non-metro areas. We do not want to recruit foster parents interested primarily in money, but we do want to be able to pay a rate which reflects professional respect and assures that foster children need not be raised in poverty conditions (Recommendation 5).

Public Law 96-272 requires that child welfare agencies extend reasonable efforts to make it possible for each foster child to return home. The interpretation of what constitutes "reasonable efforts" has not been contested as extensively as I had expected. Court-room disputes regarding the adequacy of these efforts have not been commonplace or a problem in Hennepin County. I suspect that this will change as a result of recent Minnesota legislation which shifts the burden of proof in termination of parental right actions onto parents after 12 months in placement if the agency has made reasonable efforts toward reunification. But apart from court interpretation, we as professionals must ask ourselves whether our efforts are reasonable. I fear that our honest response would be that our efforts are reasonable in relation to funding available, but not in relation to our knowledge of effective programming. If our society is to avoid children unnecessarily remaining in foster care, federal, state, and local funding must permit the availability of professionally respectable foster resources and staff resources intensive enough to foster reunification at the fastest pace which will meet the child's and family's needs (Recommendation 6).

National concern over children unnecessarily spending years of their lives in foster care precipitated the passage of P.L. 96-272 and, therefore, its focus was on reasonable efforts to prevent placements and to reunite families. But in spite of these efforts, as well as adoptive efforts, some children will remain in long-term foster care often until reaching the age of majority. For these children, we must rekindle the positive aspects of early juvenile codes which called on society to be adequate substitute parents. We must not just care for these children, but we must raise and nurture them. To fulfill this commitment will require the development and funding of new styles of foster care.

Currently foster care programs are usually comprised of family foster homes and treatment facilities which are increasingly structured and therapeutic. While P.L. 96-272 encourages the use of the most family-like setting available, the experience of more and more children in a family setting contraindicates a family-like foster placement at least initially. For example, with the children brought to our emergency shelter from "crack" houses in recent months, we perceive a notable relaxation when the children are placed in a non-familial institutional shelter.

Some of the institutional foster settings must also be only mildly structured. While emotionally disturbed children and the more severely mentally ill children I referenced earlier do require a sophisticated, highly-structured clinical treatment program, not all foster children need or benefit from this treatment. Some are outside their own family because of the family's behaviors rather than their own. While that family behavior may have led to a need for counseling or therapy, these services can often be adequately provided in an outpatient or day treatment setting, allowing the child's residence to "just be home". For other children, a long sequence of residential treatment settings has exhausted all potential benefit and has created a revulsion against any more group therapy. Particularly among homeless adolescents we find an absolute refusal to enter an institutional shelter even if the only alternative is a street life of tolerating violence and surviving through prostitution. For these long-term foster children for whom a highly structured institutional setting is inappropriate, our funding and licensing requirements must permit group homes modeled on college dormitories rather than on psychiatric treatment programs (Recommendation 7).

Two years ago your Committees and Congress recognized one very critical need of these long-term foster children graduating into adulthood. These adolescents may have learned many treatment approaches, but too often they did not learn the skills needed to survive as adults--shopping, cooking, getting and keeping an apartment, selecting roommates that will not lead to arrest, job hunting, work habits, and handling money. My Department is currently conducting a longitudinal study of homeless adults, in cooperation with the Institute on Poverty at the University of Wisconsin. One of the alarming findings regarding those interviewed is that 14 percent of those experiencing their first homeless episode identify themselves as graduates of foster care. Of those interviewed who had experienced prior homeless episodes, 26 percent identify themselves as graduates of foster care. This figure alone affirms to me the appropriateness of the 1986 legislation adding independent living programs to the list of services funded and the need for the additional appropriation provided while so many other programs were being reduced. The Select Committee is well aware of the delays in implementing this legislation, and the limited appropriation does not nearly approximate the need. Nevertheless, let me assure you that the funding has made a difference--my Department is providing training to foster parents in how to prepare foster children for adulthood ($25,000) and is providing graduates of our independent living programs the "going out into the world" funds they need to get a start ($32,797). I must emphasize that these federally funded initiatives are not the highest priority for independent living training, but were selected for two reasons. First, the current time limits on the availability of these funds caution us to not create on-going programs that would be successful but which would have to be terminated if federal funding were not renewed. Second, these adolescent foster children in Hennepin County are fortunate that in 1985 the County Board of Commissioners established a non-residential independent living skills training program with local funding ($260,000). At the same time, we established a group home emphasizing independent living training funded by Title IV-E and other residential revenues ($150,000). The federal funds were therefore very meaningful as a complementary addition to other recently developed programs, but would have been insignificant alone.

Two revisions in the program as it currently exists would be appropriate. Many of the adolescents preparing for independent living can be adequately prepared by the age of 18. However, it is a barrier for agencies to be unable to fund services for such individuals in their initial placements in transitional independent living programs. It would be extremely beneficial to permit services initiated prior to the age of 18 to follow some children beyond the age of 18 until they have experienced independent living. The limitation of these funds to adolescents whose families were receiving or were eligible for AFDC at the time of placement in foster care inappropriately excludes many of our currently homeless youth. Their separation from their families is often unrelated to income level, but their need for independent living services is no less intense and they personally have no access to a means of payment for these services (Recommendation 8).

OVERSIGHT

Congress was correct in establishing assurances that the funds made available through P.L. 96-272 were used to implement the reforms the Act also required. However, the timelines and numerical factors included in the Section 427 audit can cloud attempts to achieve substantial progress in family reunification. On April 21, I was asked to appear before your Committees; on April 19 I received the results of the 1986 HHS IV-E audit. Disallowed expenses are $71,789. While we have not reviewed these results thoroughly, it appears that the disallowances are relatively minimal. Nevertheless, we had been concerned that there would be penalties for not pursuing court action when family participation on a voluntary basis was existent and apparently productive.

My Department has adopted a policy of not initiating court action merely to assure Title IV-E funding. If the family acknowledges its needs, and we concur that appropriate services or treatment involve an out-of-home placement, we prefer a voluntary relationship with the parents. In addition, current Minnesota regulation requires that our Child Protection program present parents the option of a voluntary placement before seeking court authority for involuntary removal. But if audit exceptions were taken when, for example, the length of placement is in question because the child ran away, the policies designed to assure family integrity would be turned into fiscal landmines. From a purely fiscal viewpoint, I should direct that we seek court action at the four-month period for all placements--but this is neither the intent of Congress nor good practice. Therefore, I would urge that audit reports permit appeals and exemption from sanctions in cases in which the child welfare agency can demonstrate that the factor bringing the sanction was explicitly taken in an effort to assure stability of the child's family(Recommendation 9).

I would like to also emphasize the irony that this sanction equals the cost of about three of our professional staff, and will reduce our ability to pursue the intent of P.L. 96-272 beyond the minimum necessary to be eligible for federal funding participation. Therefore, let me take the liberty of suggesting a different approach to enforcement. First, let us acknowledge that these audit exceptions will not provide any significant relief to the federal budget deficit. Then let us recognize that the goal is to assure that jurisdictions provide foster programs within the intent of P.L. 96-272. Let us also recognize that the exceptions taken are for payments already made which cannot be recovered, and therefore, the sanction decreases the agency's current ability to comply with the spirit of the Act. Therefore, let me propose as an alternative to the fiscal sanction, that the agency be able to retain the penalty if used as an expansion of its prevention, reunification or adoption programs and that this expansion be matched dollar-for-dollar by the jurisdiction(Recommendation 10). Such a model would be fiscally responsible and would clearly reinforce renewed commitment to the intent of P.L. 96-272.

CONCLUSION

Let me reiterate what I believe is the strongly held opinion of child welfare professionals. P.L. 96-272 represented a major and needed renaissance in federal child welfare policy. The addition of Independent Living programming was a major contribution. The fact that Congress made available funding for these initiatives was a refreshing relief at a time when other federal funding for human services was being reduced.

Nevertheless, the welfare of children in our country has taken on new blemishes since 1980. I appreciate your initiative in reviewing the implementation of P.L. 96-272 and the barriers we have encountered in this implementation. Finally, I appreciate the opportunity to share my observations and recommendations with you.

SUMMARY OF RECOMMENDATIONS

1) Amend adoption assistance provisions to assure the provision of post-adoptive services, particularly for special needs children.

2) Require agencies offering international adoptions to assume responsibility for post-adoptive services or to assume all subsequent foster placement costs incurred on behalf of such adopted children.

3) Identify a limited and consistent set of data elements for reason for placement (protection of the child, psychological treatment of the child, state wards, family dysfuntion, etc.) as a basis of analyzing the multiple factors aggregating to the number of children in placement.

4) Add to the Act a major new component addressing the needs of homeless youth, and fund these services federally in recognition of the highly mobile activity of this population.

5) Permit differing foster care rates within states if differences can be justified based on cost of living and/or on career alternatives available and the availability of foster parents.

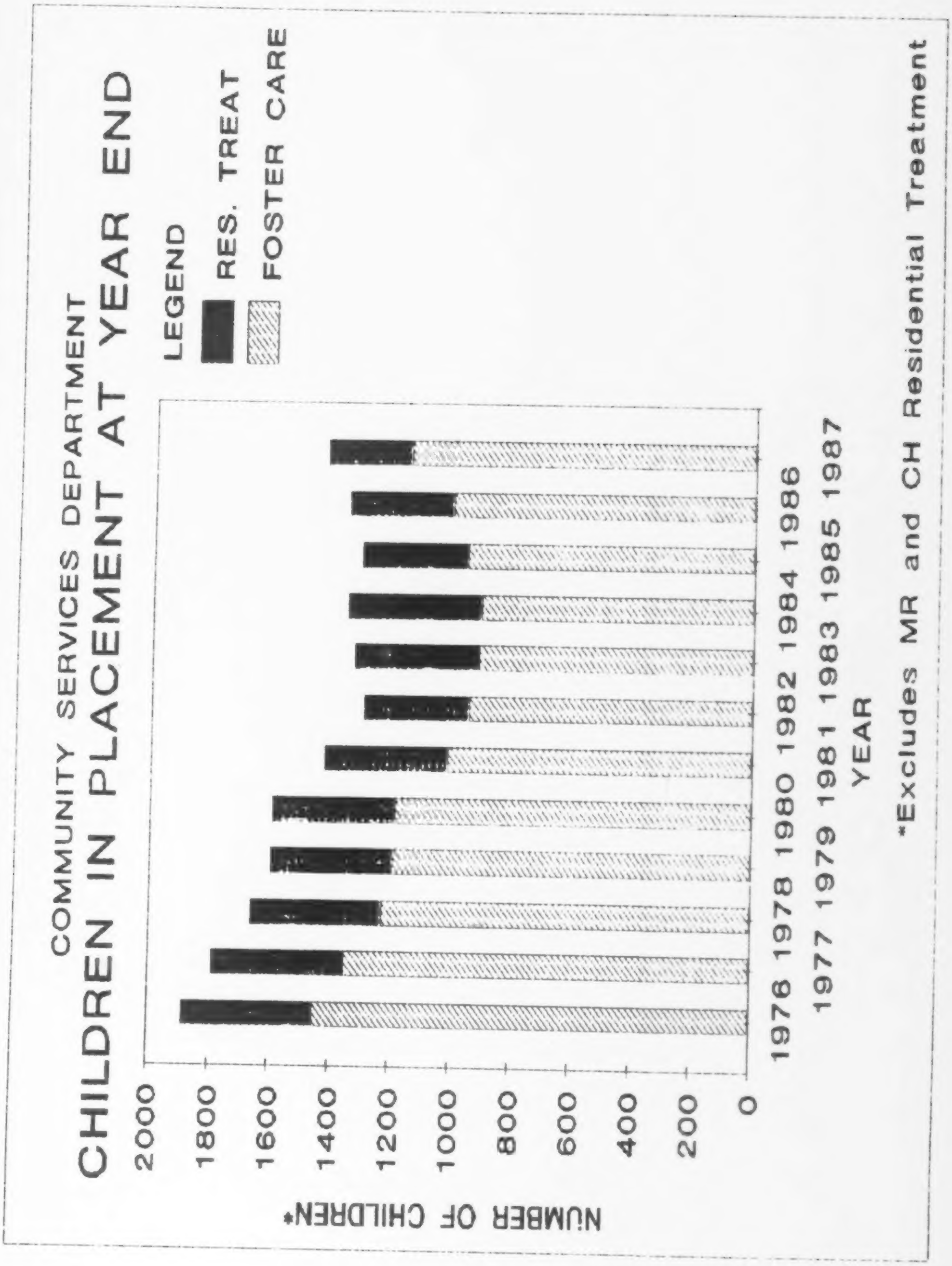
6) Increase Title IV-B child welfare funds in proportion to Title IV-E expenses to assure adequate attention to reunification efforts, as well as to preventive efforts.

7) Through HHS discretionary grants and through technical assistance to states, encourage the development of licensed but non-intensively structured long-term institutional foster settings.

8) Extend the Independent Living Program to include adolescents after they reach the age of 18 as well as homeless youth who currently have no legitimate means of support.

9) Permit exemptions from audit exceptions in cases in which the sanctions results incidentally from action positively taken to maintain family stability.

10) As an alternative to fiscal audit sanctions, provide state and local jurisdictions the option of retaining the amount of the sanction if used to fund an expansion of its prevention, reunification, or adoption programs and matched on a 1:1 state/local match.



*Excludes MR and CH Residential Treatment

HENNEPIN COUNTY
COMMUNITY SERVICES DEPARTMENT
CHILD WELFARE PAYMENTS

Amount

Month	1980	1981	1982*	1983	1984	1985	1986	1987**
January	$1,424,956	$1,532,640	$1,572,018	$1,207,910	$1,462,371	$1,674,154	1,684,940	1,716,052
February	1,405,202	1,902,363	1,540,575	1,250,683	1,597,491	1,630,138	1,636,456	1,352,764
March	1,363,101	1,572,661	1,503,374	1,287,097	1,583,472	1,566,951	1,607,004	1,724,959
April	1,555,613	1,709,975	1,573,520	1,426,523	1,624,604	1,781,852	1,733,336	1,850,113
May	1,386,506	1,665,536	1,514,163	1,465,536	1,720,551	1,613,710	1,593,567	1,759,159
June	1,446,216	1,806,553	1,508,250	1,342,654	1,804,393	1,633,919	1,713,526	1,813,759
July	1,466,866	1,699,254	1,345,683	1,353,976	1,640,770	1,741,326	1,570,172	1,681,051
August	1,473,443	1,735,237	1,420,633	1,437,016	1,652,692	1,670,177	1,551,901	1,967,515
September	1,468,146	1,838,129	1,272,704	1,302,701	1,570,439	1,579,695	1,648,659	1,636,864
October	1,508,033	1,684,423	1,273,216	1,274,064	1,582,797	1,778,510	1,505,597	1,792,181
November	1,502,118	1,848,006	1,242,480	1,545,607	1,598,214	1,706,029	1,490,665	2,080,601
December	1,558,553	1,672,010	1,226,835	1,368,704	1,530,522	1,531,571	1,691,296	1,894,005
Total	$17,558,753	$20,736,787	$16,993,399	$16,351,471	$19,176,316	$19,908,032	$19,427,119	$21,269,023
Average/Month	$1,463,229	$1,728,066	$1,416,117	$1,362,623	$1,598,026	$1,659,003	$1,618,927	$1,772,419

Cases Paid

	1980	1981	1982*	1983	1984	1985	1986	1987**
January				1,668	1,752	1,826	1,710	1,662
February				1,654	1,751	1,780	1,682	1,718
March				1,764	1,784	1,782	1,729	1,847
April				1,758	1,835	1,831	1,839	1,848
May				1,823	1,907	1,802	1,790	1,845
June				1,787	1,885	1,782	1,763	2,204
July				1,714	1,897	1,862	1,838	1,831
August				1,738	1,855	1,772	1,727	1,878
September				1,713	1,816	1,711	1,770	1,754
October				1,657	1,800	1,795	1,739	1,860
November				1,798	1,735	1,766	1,612	1,909
December				1,765	1,748	1,732	1,748	2,042
Total				20,839	21,765	21,441	20,947	22,398
Average/Month	2,026	2,119	1,849	1,737	1,814	1,787	1,746	1,857

*During 1982 Rule 34 vendors were transferred to MA funding.

** New payment system implemented in February 1987 case counts are not comparable to previous months.

04/25/88

HENNEPIN COUNTY
COMMUNITY SERVICES DEPARTMENT
CHILD WELFARE 1988 BUDGET

Services	Total	Title XX	Title IV-E	Refugee	State	Reimb	Local
Preventive Services	$3,650,000	$0	$160,000	$0	$950,000	$0	$2,540,000
Placements C.W. Payments	$9,360,000	$0	$850,000	$370,000	$1,120,000	$890,000	$6,130,000
Reunification Services	$2,560,000	$0	$110,000	$0	$670,000	$0	$1,780,000
Adoption Services	$950,000	$0	$40,000	$0	$250,000	$0	$660,000
Refugee	$100,000	$0	$0	$60,000	$0	$0	$40,000
Independent Living							
Staff Cost	$200,000	$0	$10,000	$0	$50,000	$0	$140,000
Non-Residential	260,000	0	0	0	0	0	260,000
Residential	150,000	0	0	0	0	0	150,000
Total Indep. Living	$610,000	$0	$10,000	$0	$50,000	$0	$550,000
TOTAL CHILD WELFARE	$17,230,000	$0	$1,170,000	$430,000	$3,040,000	$890,000	$11,700,000

JM 04/26/88

Acting Chairman **Downey**. Thank you, Mr. Weber.

Let me ask you both about the HHS audit procedures. You tell us your experience with this first, Ms. Hurst.

Ms. **Hurst**. Our experience with the reviews or audits has been that the criteria has never been available to the State. In other words, when they come in, they have a checklist that they use. It differs for each review.

In Virginia, we are locally administered and State supervised. Therefore, State policy must relate to the local agencies, those aspects of Public Law 96-272. If that policy is not known to the State and is not issued to the locality, the local worker has no way of coming up with dotting some "t's" and crossing some "i's," or whatever, to make that audit successful. It is a very technical compliance.

For example, if you do not have a judicial review in the established time frame documented in the case record and your documentation states that the judge continued that case for legal representation of the parents, then that case is totally out of compliance based on a court order in the judicial system, over which policy would have no control.

Those are some—and lots of other experiences. We think that if we had a basic compliance review criteria, that the States would look at those criteria—and localities have given the commitment based on the benefits of this law—and localities would comply with that criteria, and it wouldn't be a negative aspect of the public law.

Acting Chairman **Downey**. Is there an adversarial relationship here? How often have they come in and audited you?

Ms. **Hurst**. They have been in Virginia every 2 years on a regular basis for the whole 8 years.

Acting Chairman **Downey**. What sections of the act have you been audited under?

Ms. **Hurst**. All of them, except on the prevention section.

Acting Chairman **Downey**. What was your experience with the audit, Mr. Weber?

Mr. **Weber**. Very similar to what has been said. I would reiterate the need for clear, advanced criteria to be used in the audit. Otherwise, our direct service staff spends more time taking care of administrative paper work that might be questioned rather than the work they should be doing with the foster children and parents.

Let me highlight five areas of concern. Interrupted placements. If a child is in a foster home for 2 months, runs away for 2 months, then comes back for 2 months, is that a 6-month placement or a 4-month placement?

Three weeks ago, we were working with a family on a voluntary basis for almost 18 months. The plan was to return the adolescent home to the mother. Literally the day the child was to return, the mother changed her mind. From a fiscal vantage point, I should mandate to my staff that we would always take court action, to assure that the court action required by Public Law 96-272 was covered.

In this case, we did not get court action within the required time lines. Nevertheless, it is more appropriate for most of the families who enter into a voluntary relationship with us to maintain that voluntary rather than a court relationship.

Third, court language. HHS is looking for explicit wording in the case records. It is extremely difficult for social workers to address county attorneys or judges and tell them exactly what wording should be utilized in court orders. That is not part of the tradition within the legal system.

Fourth, many of the delays are beyond the control of child welfare agencies. There are court delays. In many cases, public defender delays. Many of our parents, particularly in the child protection system, are represented by public defenders. It is not uncommon that in the last hearing the public defender will not show up. Therefore, the court hearing does not proceed, because the parents are not represented. That is beyond the control of our agency and may be totally unrelated to efforts at compliance with this act.

Finally, I would reiterate again my comments about the children who are coming into care as a result of intertwined criminal activity, the crack-house kinds of things, the homicide of their parents. In many cases, because of the criminal legal procedures that are going on, there cannot be other parallel legal proceedings because they will interfere with the criminal legal activity. That is also beyond our control.

Acting Chairman Downey. On the top of page 3 of your written statement, you describe a situation where one-half of the children in a shelter facility had "experienced a murder of a friend or their immediate family." You have also described families with long histories of violence, child custody hearings intertwined with proceedings and extremely—and this is one of life's great euphemisms—nontraditional family structures, as patterns that are counted far less frequently in the 1980s.

These factors make compliance with the court provisions of Public Law 96-272 extremely difficult to meet.

Let me ask you, should we change the court review provisions of the 1980 law? How would you change them?

Mr. Weber. My suggestion would be not to change the court review proceedings or the time lines. I think the time lines are appropriate for the vast majority of children. However, when the time lines are not met and the reason for not meeting them is either beyond the control of the agency or in fact, it was for the purpose of maintaining the family stability, that a waiver should be available, that there not be an audit exception.

For example, the two children I referenced in my testimony. There is a homicide investigation going on. Our ability to proceed on the children's status will be very limited for a good 6 or 12 months. Even our ability to go into court on those cases to get court recognition is very likely to be limited because of the homicide proceedings going on.

Acting Chairman Downey. What happens to the children in the meantime?

Mr. Weber. Those children will remain in placement. Right now, they are in our shelter partially for their protection and partially for the criminal proceedings and partially because they do not have any parents. They are likely to remain in our care for an extended period of time; release to a foster home will be unlikely in the immediate future because of their safety and the role they will play in the trial.

Their ultimate future will depend very much on what happens with their legal status. Will the parental rights be terminated or not.

Acting Chairman **Downey**. You also mention the number of mentally ill children in foster care, and I am curious whether or not you think families, as opposed to institutions, are acceptable alternatives in these cases? It would seem to me that a family adopting a child with these types of disabilities is going to need intensive work and screening and possibly greater resources.

Can you comment on that?

Mr. **Weber**. Yes. I would suggest that there are two separate issues. Where should the child be residing, and second, where should the child's mental health needs be met. We take the approach that if a child's family is adequate and the child has treatment needs that must be met outside of the home, then we begin with day treatment programs and only if necessary go into a residential program.

That treatment need is separate from the child's ability to live safely with his or her family. Conversely, the fact that a child cannot live safely with his or her own family does not mean that the treatment they might need must be done in a residential treatment setting.

We think it is important to say, can the child living with his or her own parents receive mental health treatment on an outpatient basis? If the child cannot remain with his or her own parents because of child protective reasons, but can receive adequate mental health care in an outpatient or clinical setting, that can be done; in which case the child would live with a foster family to take care of the child's need for a home or substitute home and continue the treatment on the least intrusive basis, such as clinical outpatient.

A child should be in a residential treatment meeting only when the intensiveness of mental health treatment requires 24-hour care, not just because the child cannot live with his or her own parents. We have two variables in question.

Acting Chairman **Downey**. Mr. Coats.

Mr. **Coats**. Thank you, Mr. Chairman.

I have a couple of questions that both of you can answer. First of all, thanks for your testimony.

Mr. Weber, you indicated that the increases in the numbers of young people in the system are basically coming from four sources. You mentioned kids coming out of crack houses where drugs, murder, and violence is predominant; children of the deinstitutionalized mental patients; seriously mentally ill children and children that have been adopted but are no longer wanted, and I presume that is because there are problems that can't be solved by the adoptive family.

At the same time, we had testimony at the last hearing that the supply of available foster parents is shrinking. Are we facing an unsolvable situation here? Obviously, if these are the types of children coming into the system, it is easy to see why it is hard to recruit foster parents, if their choices are increasingly children that are coming from situations that bring so many handicaps with them. Their conclusion might be: we are not sure that we can successfully bring these children into a foster care situation and provide the kind of help and parenting that they need.

How do we resolve that? The reason I ask you specifically that question is that you said we know what works in terms of recruitment. How do you reconcile all that? What does work, and how do you deal with that?

Mr. WEBER. First of all, let me emphasize the four different trends I identified of increasing placements in foster care are not the only reasons children come. Those are four major trends that are new. The children coming into foster care are from that vantage point much more difficult to care for. There are some specific things about the foster parents that I think we can address.

First of all, while recognizing that family foster care is not the appropriate style for many children, for many children, it is. The recruitment of those parents I think is somewhat possible. One of the big issues will be the support they receive from agencies such as my own.

If we look at the availability of title XX funds as we referenced earlier, I don't have staff, and I can't pay the staff to provide the support that is needed by foster parents to keep those children in a foster setting. They must be regularly supported.

I do contract with four private foster care agencies. We pay those agencies roughly twice what we pay our own foster care programs, because we can contract at variable rates. The rates we pay foster parents directly are determined at the statewide level.

Therefore, we simply can't pay foster parents even the full cost of board and room, much less compensate for the additional difficulty that they have to face in dealing with these children.

I think we must recognize foster care as a career. That would solve the problem of individuals, particularly single parents, looking for a career. They want appropriate reimbursement, have their own children to care for and could be appropriate foster parents. But we do not permit them financially to be able to approach foster care as a career.

I think that recognition of family foster care as a career, to provide the proper support from agencies such as mine as we place the foster child, and to pay in a way that looks professional—as compared with the fact that we pay more to people who kennel dogs than people who take foster children—will enable us to recruit much more effective foster parents, at the same time emphasizing that some children who are in care should not be in family foster homes because of their own needs.

Ms. HURST. Foster family recruitment is one part of the problem. With the severe emotional child coming into care, foster parent training so that they can be a key decisionmaker in the best interest of the child and carrying out the service plan is also an expensive but high payoff proposition.

Our experience is that the State Legislature has said that we want that as a priority based on the success of training, and this includes screening out those foster parents sometimes that are not equipped to handle the types of children that Mr. Weber mentioned.

But for other foster parents, allowing them the training that they will need to deal with the child, and change foster parent, to a parent decisionmaker, at least on an interim basis when a child is in care.

That doesn't fall out of the sky, as far as development of that training, conducting that training, and the follow-up that is necessary on an ongoing basis. Foster parents are volunteers in the State of Virginia. He gave us his rate of foster care maintenance. I am embarrassed to give you ours in Virginia. Our foster parents are strictly volunteers. And when we are recruiting, we use the same techniques as you would use in recruiting volunteers.

So, I do think that funding is necessary for training and I think there should be a certain economic level of maintenance payment required for every child that comes in or is in need of services.

Mr. **Coats**. What about the reunification? That covers the recruitment area. What works in family reunification?

Mr. **Weber**. Mr. Coats, let me suggest that the most effective method we have found is the kind of methodologies similar to the preventive efforts, if in fact a family ultimately will be able to function with the child remaining with the family.

In some cases, the kind of support to the family can be provided while the child is there. In other cases, the family dysfunction is severe enough that the child must be removed for some period of time, but the same kind of support is necessary.

The family must learn to deal with the child's behavior in adolescence. That is often the case. In many cases, it is a question of familial neglect, in which case we are talking about preparing the parents to provide for the basic needs of the child; how to provide adequately for the nutrition, the physical well-being, et cetera, if the child's care is so much at risk that the child must be removed from the home while the parents are learning the skills or developing the willingness to provide that kind of care to the child.

In many cases, the work with the parents is very much the same. The question is simply, is the care at a sufficient level that the child can remain with the parents while they are improving their ability to care for the child, or must the child be removed to receive even the most basic and adequate care while the parents are upgrading their skills?

Mr. **Coats**. What is the trend? What do you see? Is it becoming increasingly difficult on the reunification end? Are there multiple factors involved that make it much more difficult to provide that front-end service?

Mr. **Weber**. In 1980, the kind of children we were talking about as inappropriate for foster care could remain at home with some basic support for the family. Now, those children are not coming in to foster care. The necessary corollary is that the children coming in are from families that have more complex problems.

We are talking about families that may have been physically abusive. The parents may have been abused themselves: the kind of phenomena that has gained a great deal of attention. Those parents must be treated. We may also be treating chemical abuse, or the lack of adequate housing available to parents.

If we are talking about a 19-year-old single woman who has four children, had six pregnancies, worked for 4 weeks at McDonald's when she was 16, and reads at the fourth grade level, we may be removing two or three children from her. To return them will require some development on her part, learning to read, a stable home. She is probably using chemicals. Her own mental health, the depression that she will understandably be experiencing, all of those must be addressed.

At the same time, I would emphasize the need to support the families with children in foster care. We have staff responsible for 17 children, trying to arrange all those different treatments for the 19-year-old young woman I just described.

It is not just a question of arranging all those therapies, we may be asking that parent to go to three therapies in one day, which is not realistic. The parent may not be used to getting up at 8 in the morning or 10 in the morning, and may not be used to keeping an appointment at 10 the second Tuesday of each month.

So, there are greater, more complex needs in these families, and we have staff with less time able to support the family through the provision of services.

Mr. COATS. In what percentage of your cases are drugs involved to the extent that it makes it a difficult situation?

Mr. WEBER. My impression would be that 70 to 80 percent of the children in placement, chemicals are a significant part of their family structure.

Mr. COATS. Is it realistic for us to expect that we are going to go in there and tell the mother that we are going to improve her reading level from fourth grade to sixth grade, and we are going to give her job skills, if 70 to 80 percent are chemically dependent?

We are talking about a major effort. A substantial percentage of this may not be successful, because you don't have any desire on the part of the parent to deal with their problems, or ability on the part of the parent to deal with them.

Mr. WEBER. It is not necessarily chemical dependency, but 70 or 80 percent where chemicals are a significant part of the family functioning, either on the part of the parent or the child. Our ability to treat people for chemical abuse, particularly alcoholism, is better.

The critical case is not how easily we can treat these situations, but we must recognize it is essential to treat those parents that 3 or 4 years ago we would have too readily accepted as unfit parents, not tried to rehabilitate those families or restore those children.

If we fail to try to treat, then we will end up with another backlog of children remaining in foster care, and what will we do with them?

Mr. COATS. When you find the situation of chemical dependence that is a primary problem that has to be solved first before you get to the others, is it better to deal with that in the context of family reunification or better to move the child?

Mr. WEBER. It is always better to deal with the child in the home if the child can be there safely. If it is alcohol problems and the father is beating the child, we have to get the child out. But if physical abuse is under control, it is better for the child to be there while the father is treated to attain sobriety under the circumstances in which the family will have to function. I imagine it is a lot easier to stop drinking if you don't have an adolescent in the house, but it does not prepare the parent to live with the child.

Acting Chairman Downey. Congressman Levin?

Mr. Levin. I have just one question. The testimony has been graphic.

How many children are we talking about in the two areas here?

Ms. Hurst. In Virginia, the average caseload in foster care is right around 6,000 children for the entire State. That is down as a result of prevention services required under the law, from 8,000. Some children, as you know, grew up and went out of care at the age of 18 in Virginia.

And we do have examples where localities have instituted prevention services as a priority based on the local governing body's emphasis with the commitment of their local funds, and we have significantly reduced the number of children not only returning home but also entering care.

The court is not ordering care based on the prevention services that have been developed as a result of a local commitment.

Mr. Levin. You said you did not want to mention the reimbursement. I wouldn't press you.

Ms. Hurst. In Virginia, I would share with you that we are very pleased that the legislature did increase the maintenance payment by 26 percent. It runs around $244 for a child in the same age range as Mike mentioned, and his was $294.

Mr. Levin. What numbers of children are we talking about?

Mr. Weber. Slightly over 1,900. If you review my multiyear chart, in 1980, we had slightly over 2,000 in placement. By 1984, we had gone down to 1,800. The policy revision I talked about in my testimony dropped us to 1,750 in 1986. As a result primarily of child protection concerns, we are now up to almost 1,900.

Acting Chairman Downey. Mr. Hastert.

Mr. Hastert. I have to rely on some of my persons in the legislature. It seems to me in Illinois, we had a huge population of adoptable children. Those children who are white and who are infants all of a sudden are cycled out of there in a permanent family situation. The next cycle are those kids who leave an institution to go into foster care.

Sometimes it depends on how you deal with the courts, whether you can get judges to terminate parental rights and cycle that into the child's situation. Then you have the special population of children who have special needs. They might have a handicap, maybe a child from someone with a drug problem, and these kids need very intense help from State institutions.

Finally, you have this population nobody wants. You can't put them in foster care because you cannot get foster parents to take them. Then you have these children who have been in foster care for 16 years and have been banged around and they don't want to go.

Then you have some kids in institutions. The problem is to try to get the kids in an adoptable population as quickly as possible. It is cost-effective. The kids then have families; and everything kind of works itself out. What do you do with the minority group that have very intense needs? In Illinois, we used churches. What do you do? How do you attack that problem?

Ms. Hurst. I will give you the one copy I have, and this is "Children Adrift." This has to do with the black child in foster care in

Virginia. We did this research and published it in order to get, what you are saying, a handle on those children that need to be in permanency.

Mr. **Hastert**. We used to call them orphanages. During my tenure in the general assembly, we did away with it. We were real proud, but there are some great institutions. Maybe we need to look at that again, I don't know.

Ms. **Hurst**. I don't have the stats in front of me to verify this, but it is the workers' opinion that they share in their efforts to try to find placement that children coming into care, as you say, if they don't find permanency in one place or another, that the child moves from the correction facility to the mental health facility to the local court system that orders the custody to the social services agency.

That is, after all the other efforts as far as service plans for that child have failed, the child and the foster parents, and the child and the residential facility, and the child and the school system are automatically set up to fail when that court order comes in.

Structured family therapy has been a casework practice that has been used in the goal of returning home for those very, very difficult children in the area of parenting or parenting responsibility and making a change or pursuing the permanency for those very difficult children.

Mr. **Hastert**. And the success ratio is lower.

Ms. **Hurst**. Yes, it is.

Mr. **Weber**. I would suggest two different strategies. First of all, the effort to terminate parental rights as quickly as possible, so the child is adoptable as soon as possible. The Minnesota Legislature passed legislation that is designed to terminate parental rights more quickly.

It changes the burden of proof. Currently it is on the State. The new legislation shifts that after 12 months in placement if there have been significant efforts on the part of the agency to reunify the family, then the burden moves to the parents to prove that they are fit parents.

Secondly, we have to recognize that there are some children who will not be adopted, either because we cannot find adoptive homes or, more commonly, they don't want to be adopted. A family to them is not a desirable concept given their experience.

Then, I think the reference to the orphanage is appropriate. They will be children of the State until they are 18. In addition to foster homes, we must have institutions that are just plain home to the child who doesn't want to have a family. There are some advantages and disadvantages, but a highly structured place that meets the needs of the children as we see them—will be completely unacceptable to these children.

Acting Chairman **Downey**. Mrs. Johnson.

Mrs. **Johnson**. I am very interested in your new law in Minnesota, having worked on these issues in Connecticut as a member of the Connecticut State Senate.

That leads me to another aspect. A decade ago, we developed a fine alcohol treatment facility in Bridgeport, Connecticut. The State legislature discovered that the real problem with this great facility and program was that we had no power, once someone was in, to keep them in the program.

So, for about one-third to half of the people, we had a revolving door situation where people could come in for a couple of days to sort of dry out and then they would leave again.

I looked at your statement regarding the drugs in the family. Do you have significant legal authority to remove a drug-addicted parent instead of removing the child, and put in that home parent's aides or whatever? Do you have the authority to require participation in a program?

I understand if you require someone to participate in a program, they may not get as much out of it than if they choose to do it themselves. Many times, they are so afraid of it, they won't make the decision. Some people in forced placement do do well, although it may take longer.

What I am hearing about families in urban areas, primarily from teachers and social workers, is that they are really frustrated that the parent is being left out of the equation of what families are to do with their problems and lives.

Parents are not being held accountable to their responsibility to the children. I think the parental rights law is an interesting step in moving toward parents.

In the area of substance abuse, do we need greater leverage? Do we need to be able to use earlier education texts, using institutional involvement? In Missouri and a number of other States, we just passed an Even Start Program to make contact with families very early, before the problem becomes a crisis and acute and destructive for the child. We need to build a rapport and to require the parent to participate in treatment and to, at public expense, provide in-home care givers, which is cheaper than institutional care, anyhow.

I am getting the impression that we just don't have the leverage to do this, even if we want to. Is it a tool you would like to have?

Mr. WEBER. Yes. I agree with many assumptions you suggest. Let me comment on our authority to remove the offending parent, whether it is for chemical or alcohol abuse, we do not have that authority. If we have a chemically dependent father who is abusive of the spouse and children, the spouse can get a restraining order restraining the parent from being in the home. That is up to her.

Sometimes a restraining order is obtained but there is a reconciliation and the father comes back, and the home is still unsafe for the child. We have no authority to remove the father. We do have authority to remove the children.

The second issue is holding the parents accountable. There is another piece of legislation that passed, which increases the contempt authority of the court to hold in contempt individuals, specifically parents who do not cooperate with a family treatment program.

Mrs. JOHNSON. That is the kind of thing that interests me. I am familiar with the things you talk about in the area of spousal abuse. We are experimenting with this. We passed a provision in the welfare reform bill that allows some demonstration projects for education, work or training for the unemployed fathers of welfare-dependent children. We did not mandate participation. But first we have to look at causes.

Certainly, drugs are a widespread root cause in many forms. Until we have stronger participation in prevention programs, we have to deal with the results. In addition I want to commend you on your comments on rates, reimbursement rates, and making foster parenting a career option and a highly-trained profession.

Ms. HURST. I would like to follow up on your comment on the schools and the social workers as far as what they are telling you. They see these children on a daily basis, and I would be remiss if I did not say that what they are saying is that they would like to see, both at the Federal level and the State level, equal amounts of money spent early on that you are talking about in the area of prevention, family-based services.

That is what I hear the social workers and the school system saying to us as administrators: we need to be advocates for that money that might not be as measurable in 1988, 1989, and 1990, as far as reducing caseloads, increasing services, but you will be able to measure it in 20, 21 and 22 years.

Mrs. JOHNSON. Thank you. Thank you for your testimony. I missed some of your presentation, but I did review it and enjoyed your comments and answers.

Acting Chairman DOWNEY. Mr. Miller.

Chairman MILLER. Thank you.

Thank you very much for your testimony. I want to join in the comments by Mrs. Johnson and say that I think that, in raising this issue about the people being asked to take care of the children that you have described in your testimony, we must consider the whole issue of whether or not we are going to train these people and professionalize them. The notion that we are going to take severely troubled children and put them in poor homes where there are no resources and the skills are just not available is incredible.

Those of us who have raised children where almost everything is going right appreciate the skills that are needed just to run along the same track with these kids. Then, to get a very complex, troubled child and to believe that you are going to serve them by placing them in households living below the poverty line, when even transportation becomes a major obstacle; this is a system doomed to failure.

I think we ought to understand that everybody else in the system is getting paid. Social workers are getting paid; the doctors, the lawyers, the judges, everybody is getting paid; but the foster parents are supposed to volunteer to take these children into their home and provide all the services and send them back as a normal, functioning human being in a few years.

It won't work, and we have to recognize that. I appreciate that both of you, with your experience, say that early services still make the difference. You both ask for an addition to 4(b) service moneys and not just to continue the maintenance.

How often are you audited?

Ms. HURST. In Virginia, we have been on the schedule every 2 years for the last 8 years by HHS.

Chairman MILLER. And by anybody else?

Ms. HURST. The last review, we had a GAO followup audit in 1986.

Chairman MILLER. What were the results?

Ms. HURST. The same.

Chairman MILLER. So, the audit procedure was then audited?

Ms. HURST. That is right, the audit procedure was then audited. We still don't have any criteria at the State level on what the auditors audit the auditors. That is our problem. One audit waits for the other audit to be issued while they are issuing the other.

We have GAO and HHS working in concert with the States. GAO has the first audit.

Chairman MILLER. I have some additional questions I will submit to you in writing. My apologies for being late. We are going to have HHS up here later, and you can be helpful to us.

Acting Chairman DOWNEY. Thank you, Mr. Miller.

I thank you both for your testimony.

Chairman MILLER. Mr. Chairman, I ask that my opening statement be inserted into the record.

Acting Chairman DOWNEY. Without objection.

[The statement follows:]

OPENING STATEMENT OF HON. GEORGE MILLER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, AND CHAIRMAN, SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES

We are here today to continue our examination of foster care, child welfare, and adoption reforms, our first intensive look since passage of P.L. 96-272, The Adoption Assistance and Child Welfare Act of 1980. In our first hearing, two weeks ago, we heard from those who are directly touched by the foster care and child welfare systems—foster children, foster parents, and caseworkers—as well as from advocacy group representatives and foster care review panels from across the country.

Today we will hear from those who are charged with administering the program at the state and county levels, and from representatives of agencies which provide services to children and their families in these systems. We will learn about the barriers they have faced in implementing P.L. 96-272, as well as their successes. We will also hear from participants in the judicial system, an integral component of the foster care system, and the special problems they have encountered in meeting the mandates of the law.

Preventive and reunification services were promoted in the law to keep children in their own homes and prevent the unnecessary placement of children in foster care. The law also mandated procedural protections for children in the foster care system to ensure that their placements are appropriate and they are receiving the services they need.

Testimony from our first oversight hearing, however, strongly suggests that for all too many children and families, the law is not working as we had intended. Reports of unnecessary out-of-home placements, unduly long stays in emergency shelter or foster care, and the dearth of essential mental health, education and health services for children and their families are persistent and growing.

Witnesses cited various reasons for the system's inability to effectively assist children and their families: the unprecedented increase in child abuse and neglect reports, the increase in the numbers of homeless families and children entering the system, the impact of the drug and AIDS epidemic on infants entering care, and the impact of economic pressures on children and their families.

The result of these unforeseen trends is that more children and families with serious problems are now entering the system, overwhelming the available services, resources, and caseworkers.

Today we will explore how state and localities are administering their foster care and child welfare systems in the midst of this crisis, and the roles played by courts and service providers.

What kinds of preventive and reunification services are provided? What is the impact of these services on the vulnerable children and families who receive them? Are these services cost-effective?

Is the requirement of "reasonable efforts" to prevent removal of a child from home helping to keep children and their families together?

Finally, we need to review states' use of the funding mechanisms for states, and determine where improvements must be made in order to make this law work better, not only for the families and children receiving its services, but for the taxpayers who pay for the program and the people who administer the program.

Acting Chairman **Downey**. The committee will hear from the Honorable William Jones, district court judge, 26th Judicial District, Charlotte, North Carolina; Mark A. Hardin, Esq., director, Foster Care Project, American Bar Association; Anita Weinberg, assistant public guardian, Chicago, Illinois; and J. Randolph Burton, spokesperson, Justice for Children, Houston, Texas.

STATEMENT OF HON. WILLIAM G. JONES, DISTRICT COURT JUDGE, 26TH JUDICIAL DISTRICT, CHARLOTTE, N.C.

Judge **Jones**. Mr. Chairman, I have been a Judge for almost 12 years. It feels different for me to be down here with the lawyers.

Acting Chairman **Downey**. We will be gentle.

Chairman **Miller**. We will protect you.

Judge **Jones**. I am glad to talk to you about things that might be done to enhance the effectiveness of Public Law 96-272 as far as the courts are concerned.

One thing I have observed about lawyers is that many of them begin their presentations by saying, "Judge, I will be brief." That is a commitment that is not always honored, but I hope to keep it.

I have some prepared testimony that was lost in the process of getting here.

Acting Chairman **Downey**. We have it.

Judge **Jones**. What I want to do is make some suggestions for action Congress might take. The first is that you require States to pass implementing legislation, at least of the provisions affecting the responsibilities of courts. This act is an unusual piece of legislation in that it requires State court judges to be watchdogs over local agency compliance with Federal law.

That is a responsibility that has not always been well-received by State court judges. I think commanding this would go a long way toward fulfilling the critical role that courts play in the scheme of the act.

The second suggestion is a corollary, that you insist that the sanctions of the act be enforced. I heard the testimony about audits and about how HHS is enforcing requirements of the act, but I don't see that happening in my community or my State. Sometimes we find the agency did not make reasonable efforts, and they sort of shrug their shoulders.

I would also encourage you to provide incentives to States to improve the way courts hear these cases and how they are organized. I am talking about rotation of judges and the concept of one-family one-judge, which was promoted by the ABA-IJA Committee on Juvenile Justice Standards, and about requiring that children's cases be heard by the court of highest jurisdiction in the State.

And perhaps most importantly, about adding enough judges to give these cases the time that they require and the time that they deserve. In my written testimony, I refer to the crunch of time that many courts experience, particularly in urban areas, where dozens and dozens and sometimes hundreds of cases are scheduled before one judge in a single day. That results in essentially meaningless hearings.

Finally, I urge you also to provide States with incentives to improve the quality of advocacy on behalf of children, parents and the agency. I refer to why that is important in my written testimony. I will not repeat that.

I would like to say that within my memory, the only persons present in the courtroom for a child abuse case were the social worker and the judge. There were no lawyers when I first began this work.

Now in most courts there is a lawyer for the child or a volunteer guardian ad litem in some systems. There is a lawyer for the agency, and there is a lawyer or perhaps two lawyers for the parents if there is a conflict between them.

As a result, each hearing takes more time. The hearings are more costly, the cost of the process is more expensive, but it does produce better results. We have made much progress, but there is room for improvement. The process works only as well as the players in the process make it work, the judges, the lawyers.

My hope is that you will consider promulgating ways to make those improvements. I think it is essential that training for judges and lawyers be required and funded, that States be encouraged to promote specialization by contracting with a few committed lawyers to do the work rather than appointing from a list that anyone who has a license to practice law can have his or her name added to, or at the very least limit the appointment list to those who do good work, or require that they engage in apprenticeships with experienced lawyers.

There are a number of things that can be done to enhance the quality of advocacy for children and parents in these proceedings. If the legal process is to realize its potential and accomplish what the act contemplates it will accomplish, we have to enhance the quality of advocacy for the parents and the children and the agencies, and we have to enhance the capacity of judges to make wise decisions in these cases.

Thank you.

[The statement of Judge Jones follows:]

JUDGE WILLIAM G. JONES
26TH JUDICIAL DISTRICT COURT
CHARLOTTE, NORTH CAROLINA

Mr. Chairmen, members of the Select Committee and members of the Subcommittee, thank you for the opportunity to discuss with you the implementation of the Adoption Assistance and Child Welfare Act of 1980, and in particular, the Reasonable Efforts requirements of that Act.

My comments are made from the perspective of a state trial court judge who hears child abuse and neglect cases.

Enforcement of the reasonable efforts requirement depends in large part on courts.

Courts rely on the adversary process to produce evidence in the form of testimony and documentation, and for presentations by advocates, including legal arguments, which are supportive of the respective positions of the various parties.

The effectiveness of the court process, in any type of case - civil, criminal or juvenile, including abuse and neglect - depends on the knowledge and skill of the judge and of the lawyers for all parties.

In a typical child abuse or neglect case there should lawyers for the social services agency, for the parents, and the child.

Lawyers develop and present facts to the court. They brief and argue the law. They enlighten and educate judges regarding not only the facts and issues, including legal issues, raised by a particular case, but in a broader sense as well.

The underlying premise of the adversary process is that judges will make better decisions if they are provided with well developed facts and the applicable law.

In some places children do not have lawyers at all and in most places where they do, lawyers are appointed from a list on a rotating basis. They are for the most part poorly paid, poorly trained, and are often involved because they need the income to make ends meet or because they desire to gain courtroom experience.

The requirement that children in abuse and neglect cases have an independent advocate, a guardian ad litem, was contained in the Child Abuse Prevention and Treatment Act of 1974. It was not required that the G.A.L. be a lawyer. Volunteer lay advocates, G.A.L.'s, or CASA's, as they are often called, have significantly enhanced the quality of advocacy for children in abuse and neglect cases. They have frequently been agents for systemic change as well. They are no substitute however for skilled lawyers in court proceedings.

We're very proud in North Carolina of our Guardian Ad Litem Program. It was established statewide by our legislature and it mandates that children in abuse and neglect proceedings be represented by both a lawyer and a lay advocate. It is a model which realizes the benefit of both types of advocacy for those children and one which I would encourage the Congress to promote.

Parents are even less likely than children to be represented by skilled legal advocates.

As for judges, they rotate from court to court in most jurisdictions, and it is often the judge with the least seniority who is assigned to juvenile proceedings. In many states, including my own, juvenile proceedings are relegated to a lower level trial court.

Enforcement of the Reasonable Efforts requirement depends then on a process that is often significantly flawed.

Not only is the process flawed because of the inadequacies or the inherent limitations of the various players, or because of the way courts are organized, but it is deficient in other ways as well.

Courts do not have the time or are not taking the time to make the inquiries and findings required by P.L. 96-272.

In too many places, particularly in large urban areas like New York, Chicago and Los Angeles, hearings and reviews in abuse and neglect proceedings are brief and perfunctory. Dozens and dozens, perhaps as many as one hundred cases may be heard by a single judge in one day.

We are pleased where I'm from to have received one of four Reasonable Efforts Model Court Grants from the Edna McConnell Clark Foundation. The other jurisdictioins which have received similar grants are Grand Rapids, Michigan, the San Franciso Bay Area, and the state of Kentucky. The objective of the grants is to implement the Protocol for realizing the objectives of P.L. 96-272 which is contained in the Clark Foundation publication titled Making Reasonable Efforts: Steps for Keeping Families Together. That publication outlines what judges and agency personnel and lawyers for children, for the agency, and for parents need to know and how they need to conduct themselves in order to realize the promise of the Act.

Implementation of the Protocol assumes that adequate time will be set aside by courts to hear child abuse and neglect proceedings and to fully address the Reasonable Efforts issue at all stages of those proceedings. Attached as Exhibits A, B and C are copies of Making Reasonable Efforts, the application of the District Court of Mecklenburg County for a Reasonable Efforts Model Court Grant, and a statement prepared by the National Council of Juvenile and Family Court Judges regarding the Protocol. The grant application sets forth in detail what needs to be accomplished in my county to fully implement P.L. 96-272.

The fiscal incentives of the Act flow exclusively to social services agencies. Already overburdened courts have no fiscal incentive and, expect for judges who are committed to serving children and families better, no other reason to take seriously the Reasonable Efforts requirement. Many states have yet to enact legislation requiring judges to adhere to P.L. 96-272, and some state court judges resist Congressional dictates regarding how they should do their jobs. Attached as Exhibit D is a recent, model enactment from Ohio which implements in that state the requirements of federal law.

Congressional incentives to courts for fulfilling the reasonable efforts mandate and to states for enhancing the quality of advocacy and decision making in abuse and neglect proceedings are essential to realizing the full potential of P.L. 96-272.

The National Council of Juvenile and Family Court Judges, the Youth Law Center, and the ABA Legal Resource Center for Child Advocacy and Protection are all producing and providing excellent materials and training for their constituents. Their efforts have been supported by the Office of Juvenile Justice and Delinquency Prevention, by the State Justice Institute, and by the Edna McConnell Clark Foundation, as well as other private foundations.

I was not invited to testify as a representative of the NCJFCJ, but I am a Trustee of that organization and a member of the Advisory Committee to its Permanency Planning for Children Project. With the assistance of Health and Human Services and the Office of Juvenile Justice and Delinquency Prevention the council has trained over 19,000 judges and other professionals and decision makers regarding P.L. 96-272 and related issues. A more detailed description of that project and its activities and accomplishments is attached as exhibit E.

Judges and lawyers need still more training, however, regarding the underlying philosophy of P.L. 96-272, regarding its terms, and most of all, regarding the possibilities for realizing its promise through the court process.

Despite the passage of P.L. 96-272, services to enable families to be together have not been widely developed. Out-of-home placement is still the response of choice because it is still so readily available. Agencies continue to put their resources there, rather than into alternative services, and when there aren't services to support or implement the philosophy of keeping families together, when the agency has little to offer toward that end, the response continues to be removal.

Even where courts fail to make the Reasonable Efforts finding or when a finding of insufficient effort is made, the sanctions of the law are not being enforced.

The challenge for Congress is how to institutionalize a different response to children and families in crisis. Some additional incentives or sanctions must be developed to encourage and compel the creation of alternative resources that will enable children to remain in their families, or when they are of necessity removed, to return to their families as soon as possible.

Also, the mandate of P.L. 96-272 needs to be made clearly applicable to out-of-home placements of delinquents and status offenders which are partially paid for by federal dollars and to the Medicaid placements of supposedly mental ill youth in psychiatric treatment facilities. The philosophy of the Act is no less applicable to those placements than it is to the placement of abused and neglected children in foster care, yet no jurisdiction that I am aware of consistently makes the Reasonable Efforts inquiry in such cases.

The child welfare system is overwhelmed with adolescents, with children who are status offenders or delinquents, or whose parents refuse to allow them to live at home, or who are homeless, or "mentally ill". Many of these children are the products of poverty or broken family relationships, problems which the child welfare system is ill equiped to resolve, and yet, because of their obvious and compelling needs, the system is stretched to accommodate them.

Often such cases do not lend themselves to the Reasonable Efforts approach because the children and their families either do not choose to live together or lack the financial resources to be able to do so.

Some direction from Congress is needed regarding the extent to which the child protective servcies system should be utilized to provide for the products of failed social policy in other arenas.

The Act and Regulations do not define Reasonable Efforts, but judges must do so on a case by case basis. What constitutes Reasonable Efforts will obviously vary from case to case and place to place. In an effort to fill this void, the N.C. Supreme Court Permanent Families Task Force has published a document entitled "Minimum Services and Standards for the Delivery of Services for Children and Families in North Carolina", which is attached for your consideration as Exhibit F. Some direction as to what must be done at a mimimum to satisfy the Reasonable Efforts Requirement would be helpful.

I am pleased to see your committees meeting jointly. Your collaboration underscores the importance of improving P.L. 96-272 and of a related area of overlapping interest and responsibility, which is child support.

Economic deprivation, resulting in part from non-support,contributes to many of the problems which surface in juvenile courts. Paternity and child support issues however, are routinely disregarded in those proceedings. Reasonable Efforts should require that paternity be established and that child support obligations be enforced in every case where those issues are unresolved.

Also attached, as Exhibit G, is a summary description of a structured risk decision making model for child protective services developed by Action for Child Protection, Inc. This model gives Reasonable Efforts definition on a case by case basis because it identifies those services that need to be provided and those things which must be done to control for a child's safety and to reduce the risk of maltreatment to a level which enables the child to remain at home or to return home. Use of the model allows social workers, and ultimately Courts to make better informed and wiser removal/return decisions. Its use also eliminates extraneous considerations not related to risk and protects against decision making on the basis of personal whim, prejudice, cultural bias, or values. Use of this model or some comparable decision making model would greatly enhance compliance with the Reasonable Efforts requirement.

We've come a long way in the court system in a few short years. Only a decade ago children were routinely removed from their homes and placed in foster care on account of abuse and neglect and left there without further court involvement. That system failed the children and families it was intended to serve and courts now generally recognized their responsibility to limit access to the substitute care system to cases where its use is neccessary and to monitor efforts to reunite families. Much remains to be done however to insure that the goal of keeping families together is realized.

Acting Chairman DOWNEY. Thank you very much.
Mr. Hardin.

STATEMENT OF MARK A. HARDIN, ESQ., DIRECTOR, FOSTER CARE PROJECT, AMERICAN BAR ASSOCIATION

Mr. HARDIN. Mr. Chairman, committee members, I appreciate the opportunity to testify concerning the role of the legal system in implementing the Adoption Assistance and Child Welfare Act of 1980. I am here to discuss the parts of the Act most directly related to legal proceedings involving maltreated children.

I have been working on legal issues relating to foster care since 1975. I am currently director of the American Bar Association's Foster Care Project, and have held this position since 1980.

Before that, I was in practice, handling litigation related to child custody and child welfare issues at the Family Law Center in Portland, Oregon. I also worked on a foster care training and technical assistance project in Portland.

I would like to say initially that my testimony represents only my own views and does not represent either the views or official policy of the American Bar Association. ABA policy does support the Adoption Assistance and Child Welfare Act and supports the active involvement of attorneys and bar groups to ensure the act's full implementation. However, the specific observations and recommendations I will offer are mine alone.

Several parts of the act call upon the courts to take specific steps in legal proceedings involving maltreated children. Among other things, the act requires that courts explicitly determine whether the child welfare agency has made "reasonable efforts" to prevent placement of each foster child and to return the child home.

It requires that courts approve any voluntary, nonjudicial foster placements; and it requires that courts periodically oversee the case of each child in foster care.

The parts of the act calling for judicial action have had a powerful and positive impact on child welfare practice throughout the United States. By causing courts to review agency efforts to assist families and prevent the need for foster care, the act has helped to avoid the unnecessary placement of many children.

By causing courts to periodically monitor agency case planning and decisionmaking, the act has helped to avoid many inappropriately prolonged placements. And, as the result of jointly struggling to implement the act, many courts and agencies have begun to work more closely together and to develop a more coordinated decisionmaking process.

In spite of impressive gains, however, full and effective implementation has not uniformly occurred throughout the United States. Good progress has been made in terms of technical compliance with the act; that is, making sure that court orders recite the necessary language to comply with the Federal law. However, too often the language does not reflect a meaningful judicial deliberation.

It is not difficult to identify the reasons for the incomplete implementation of the court-related provisions of the Adoption Assistance and Child Welfare Act.

Many child welfare agencies have made judicial involvement in child maltreatment cases more difficult by failing to provide adequate information to the courts in individual cases, and by failing to adequately inform judges about what help and services are available in the community.

In addition, it is sometimes difficult for judges to oversee planning for children in the foster care system where the attorneys presenting the case on behalf of the child welfare agencies do not work closely with the agency to effectively present full information to the courts.

The fundamental difficulty for courts in implementing the act, however, is that they lack the time to conduct the additional steps required by the act fully and carefully. As you have already heard, in many juvenile courts, judges are operating under such caseloads and time pressures that judges simply do not feel able to address issues mandated by the act.

In part, this caseload pressure has occurred because of competition for scarce judicial resources.

Another important reason for the lack of resources for foster care cases is that too few legislators and judicial administrators have not been brought up to date in their understanding of the changing nature of these cases.

While foster care cases have become far more elaborate and demanding, juvenile court cases and the allocation of judicial time in juvenile court have not changed to reflect the changing nature of the cases.

The Federal Government has taken no steps to assist State courts to address this problem. Rather, the act makes substantial demands upon the courts, but provides no financial assistance to the courts to meet these demands.

Another reason for the lack of judicial time for foster care cases is that some courts have not kept up with advances in court rules and procedures that can help avoid unnecessary court-related delays and inefficiencies. Most court systems have not yet comprehensively examined their court procedures in foster care cases.

Still another contributing factor to the problem of inadequate judicial time and resources for implementing the act is that some judges handling foster care cases in juvenile court lack sufficient knowledge and interest in the requirements of the act and in planning for children in foster care in general.

This is partly due to the fact that many States have no objective practices to require selection of judges specially qualified for juvenile court proceedings to secure long-term appointments of such judges, and to require special training for juvenile court judges handling cases involving maltreated children.

Based on all of these observations, I would like to highlight my recommendations for amendments to the Adoption Assistance and Child Welfare Act of 1980:

The act should be amended to require States to establish a set of preventive and reunification services that will be provided on a consistent, statewide basis.

This recommendation is necessary both to strengthen and rationalize the pattern of State services and to permit lawyers and judges to evaluate the services being provided in individual cases.

Two, the act should be amended to require State child welfare agencies to provide detailed reports concerning what preventive and reunification services are available throughout the State.

Three, the act should be amended to require agencies to provide courts with written statements describing their efforts to preserve families in each individual case.

This recommendation is necessary to help ensure that attorneys and judges have sufficient information so the court can knowledgeably review the case and effectively carry out its functions pursuant to the act.

Four, the act should be amended to make it clear that agencies are entitled to Federal matching funds to reimburse their costs of legal counsel in helping them administer the act, but on the condition that agency counsel perform the full range of duties needed for effective implementation of the act.

Five, the act should be amended to provide lump sum payments to State court systems to help them improve their administration of juvenile court cases involving foster children.

This recommendation is designed to address problems with the allocation of judicial time for foster care related cases, and problems with the training and selection of judges handling cases involving children in foster care. Money would be allocated directly to the State supreme court or judicial administrator, because that is who has the most power to effect necessary changes.

The lump sums would only be used to pay for preparing studies, conducting foster care related judicial training, and making administrative changes to improve child protection proceedings.

Six, the act should be amended to permit the payment of Federal matching funds for the administrative costs of citizen review boards that are not administered by State and local child welfare agencies.

Current law provides Federal matching funds for review of cases involving children in foster care, that are conducted by administrative agencies, but not by courts or citizen review boards. Since citizen review boards are conducted by panels of trained citizen volunteers, they constitute an objective and cost-effective means of conducting periodic reviews.

Seven, the act should be amended to provide fiscal incentives for courts that reduce or limit delays in foster care litigation, and improve their court procedures governing foster care cases.

This recommendation has two purposes. First, it would provide funding to improve juvenile court proceedings involving children in foster care or at risk of placement into foster care. Second, it would encourage courts to eliminate needless court delays and to improve their procedures in child protection cases.

Such an amendment would be very cost-effective, since court-related delays extend the length of time that children remain in foster care. The incentive payments would be more than offset by the reduction of Federal foster care matching funds brought about by reductions in the length of stay of children in foster care.

Such an amendment would also require State courts to adopt court rules specifically designed to eliminate unnecessary delays and to improve the quality of child protection proceedings. At this time, no such court rules exist in most States.

Eight, the act should be amended to clarify that there is a private cause of action under the act.

Courts have generally held that there is a private cause of action under the act, allowing private citizens to use the courts to compel the child welfare agencies to comply with the act. However, until this issue has been finally settled by the courts, it will continue to be a point of conflict and will complicate litigation under the act.

Since the passage of the act, both individual court cases and large-scale class action litigation have played a significant role in ensuring full implementation of the act and clarifying its provisions. Therefore, the Congress should resolve the issue.

There is, as you I guess know, a much more detailed written statement detailing the reasons and recommendations. I would refer you to it, and thank you for the opportunity of testifying.

Acting Chairman Downey. Thank you.

[The statement of Mr. Hardin follows:]

STATEMENT OF MARK A. HARDIN, FOSTER CARE PROJECT DIRECTOR, AMERICAN BAR ASSOCIATION

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear and testify concerning the role of the legal system in implementing the Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C. §§620-627, 670-677. The Act regulates state child welfare agency practice related to children in foster care.

I have been working on legal issues relating to foster care since 1975. I have researched and written, provided technical assistance, and lectured on this topic throughout the United States. I am currently Director of the American Bar Association's Foster Care Project and have held the position since 1980. Prior to that time, I was involved in litigation related to child custody and child welfare issues at the Family Law Center in Portland, Oregon and worked on a foster care training and technical assistance project at the Regional Research Institute for Human Services at Portland State University.

I would like to state initially that my testimony represents only my views as a private citizen and does not represent either the views or official policy of the American Bar Association. Official American Bar Association policy does support the Adoption Assistance and Child Welfare Act of 1980 as well as the active involvement of attorneys and bar groups to ensure its full implementation. However, the specific observations and recommendations offered in this testimony are mine alone.

My conclusions concerning the implementation of the Adoption Assistance and Child Welfare Act of 1980 are based upon my experience, since August 1980, of collaborating with bar groups, judges, state legislatures, and advocacy groups throughout the United States in efforts to put the Act into full effect. I have also participated in studies on the implementation of the Act, have conducted educational programs on the Act in all parts of the United States, and have written on the Act in numerous monographs, articles, and books.

As you know, the Act was designed to overcome the unplanned use of foster care by child welfare agencies, to prevent children from being needlessly removed from their homes and placed into foster care, to prevent them from being repeatedly moved from foster home to foster home, and to prevent then from being left in foster care for long periods of time, never knowing when they might be removed from their present placement. The Act establishes a comprehensive set of requirements and fiscal incentives for state agencies, all designed to induce far reaching reforms in foster care practice. I present this testimony to discuss the particular provisions of the Adoption Assistance and Child Welfare Act that are most directly related to legal proceedings involving maltreated children. In doing so, I will outline the court-related provisions, assess how these provisions have contributed to achieving the purposes of the Act, discuss barriers to their full implementation, and offer suggestions on how the Act might be strengthened further to improve the role of the legal system in assuring permanency for children in foster care.

Court Related Provisions of the Adoption Assistance and Child Welfare Act of 1980

Several provisions of the Act call upon the courts to perform specific steps in legal proceedings involving maltreated children. These provisions require such steps as a precondition to certain federal funds being paid to state child welfare agencies. Specifically, the Act requires that:

> Courts explicitly determine whether the child welfare agency has made "reasonable efforts" to prevent placement of each foster child and to return the child home;
>
> Courts approve any voluntary, nonjudicial foster placements within 180 days after the original placement;
>
> Courts, agencies, or citizen review boards review the case of each child in foster care at least once every six months;
>
> Courts or "administrative bod[ies] appointed or approved by the court[s]" hold a hearing no later than eighteen months after the placement and periodically thereafter to determine the permanent placement arrangements for the child; and
>
> Procedural safeguards be provided for parents when children are removed from the home or are moved into different foster homes.

In addition, it is generally understood that the Act creates a private right of action, authorizing and requiring the courts to enforce the provisions of the Act in the course of litigation involving maltreated children.

Positive Impact of Court Related Provisions

The provisions of the Act calling for judicial action have had a powerful and positive impact on child welfare practice throughout the United States. First, by inducing courts to review agency efforts to assist families and prevent the need for foster care, the Act has helped to avoid the unnecessary placement of many children. This has occurred in several ways. In reviewing agency efforts to prevent placement, courts have sometimes discovered that further services would make it possible to safely prevent the placement. Other times, in the process of reviewing agency efforts, courts have more closely examined the nature of the underlying problems and decided that they are not serious enough to merit state involvement. Still other times, the agencies have made more vigorous efforts to prevent placement, knowing that the courts would review their efforts and that their receipt of federal matching funds hinges on favorable judicial determinations.

Second, by causing courts to periodically monitor agency case planning and decision-making, the Act has helped to avoid many inappropriately prolonged placements. This has sometimes happened because the court has taken decisive action at the review or has required the agency to do so. Many times, the very existence of the court review has stimulated case workers to reexamine the case prior to the hearing and to take additional steps to avoid judicial criticism or interference. On a more subtle level, the time and effort involved in periodic judicial review has created disincentives to casually placing or leaving a child in foster care. That is, judicial review has made it more burdensome to place and leave children in foster care.

Third, by making the courts oversee early agency efforts to avoid unnecessary placement and to reunify families after placement, the law has made many judges more willing to legally free children for adoption under appropriate circumstances. When courts oversee early agency efforts to preserve families and induce them to make their best attempts to do so, and when such efforts are not successful, courts are often more willing to terminate parental rights. This is because a successful termination of parental rights proceeding generally requires a showing that the agency has made appropriate and diligent efforts to preserve the family

If the court has overseen and approved agency efforts to help the family as the case has moved along, yet parents have failed to improve, it is less likely that a judge will refuse to terminate parental rights because of the agency's failure to sufficiently assist the family. This is important because many children have remained in foster care for years because, after the agency has unsuccessfully worked with a family for a long period of time and has decided to try to free the foster child for adoption, the judge hearing the case has found that agency efforts to help the family were inadequate or inappropriate and has ordered the agency to revamp its efforts to help the family. It is far more helpful to the child and the family for this type of oversight to occur early in the case.

Fourth, as the result of jointly struggling to implement the Act, many courts and agencies have begun to work more closely together and to develop a more coordinated decision-making process. Inconsistencies between judicial and agency decision-making have been reduced, resulting in smoother and more expeditious planning for children. In sum, court related provisions of the Act have made an important and valuable contribution toward better planning for children in foster care.

Continuing Barriers to Effective Implementation of Court Related Provisions

In spite of the impressive gains occasioned by the court related provisions of the Act, full and effective implementation has not uniformly occurred throughout the United States. Good progress has been made in terms of technical compliance with the Act, i.e., making sure that court orders recite the necessary language to comply with the federal law. However, too often the language does not reflect a meaningful judicial deliberation. For example, in many parts of the United States, court orders authorizing a child's placement into foster care dutifully recite that the agency has made "reasonable efforts" to prevent the placement, as required by the Act; however, the agency's efforts to prevent placement are never actually discussed and analyzed in the course of the court proceeding.

My work has confirmed that there exists a widespread problem of "paper compliance" that is mere perfunctory compliance with the court related provisions of the Act. I have reached this conclusion, in part, through extensive consulting work and meetings with judges, attorneys, and child welfare agency staff around the country. In addition, the project has conducted two formal and extensive studies on court related provisions of the Act. The first study, in cooperation with Westat, Inc., analyzed implementation of the 18 month hearing requirement. The second study analyzed implementation of the requirement that courts oversee agency efforts to prevent placement and reunify foster children with their natural parents, i.e., make the required "judicial determination of reasonable efforts."

What our studies and observations have shown is that, while there have been marked improvements in the legal process involving maltreated children, and while this improvement has led to better results for maltreated children, the actual legal protections for parents and children often fall far short of what was originally contemplated in the Act. When the Congress enacted the various court related provisions described above, it assumed that these provisions would be carried out with all of the meticulousness and procedural correctness that is normally associated with court proceedings. In fact, this occurs in some courts but not in others. Especially uneven is compliance with the judicial determination of reasonable efforts requirement.

It is not difficult to identify the reasons for the incomplete implementation of the court related provisions of the Adoption Assistance and Child Welfare Act of 1980. One reason is the failure of child welfare agencies and their legal counsel to provide adequate information to the court to permit meaningful judicial oversight of planning for foster children. More important, however, is that many judges lack the time, resources, and assistance to fully perform their oversight function.

Many child welfare agencies have made judicial involvement in child maltreatment cases more difficult by failing to provide adequate information to the courts. In individual cases, many agencies do not consistently and systematically provide information to the court concerning their efforts to work with the family and the family's progress. This information is not provided in advance and in writing as it should be, and there usually only a perfunctory oral presentation unless the judge insists otherwise. The federal government has taken no affirmative steps to remedy this problem.

It is also difficult for many judges to oversee planning for children and families because the judges do not know what help and services are available in the community. This is true, in part, because agencies do not routinely provide the courts with written descriptions of services that are available. It is also true because no predictable and consistent pattern of services exists in many states. That is, money for a specific service often runs out in the middle of the year; long waiting lists exist for the most basic types of services, even for emergency cases; and the types of services vary widely from community to community within the state. The federal government has taken no affirmative steps to assure that agencies report to the courts concerning service availability, nor to assure that the service plan required by Title IV-B of the Social Security Act sets forth a set of services that actually will be provided on a consistent basis in all parts of the state.

Finally, it is difficult for many judges to oversee planning for children in the foster care system because many attorneys presenting the case on behalf of the child welfare agencies do not work closely with the agency in order effectively present full information to the courts. In some jurisdictions, the attorney first meets with the caseworker shortly before the hearing and simply does not know important information that should be elicited through questions to the caseworker. In some other jurisdictions, caseworkers are actually forced to appear without counsel in many court proceedings.

Some agencies are inadequately represented by counsel for a number of reasons. For one thing, the agencies are often represented by attorneys who are not answerable to the agency. Many agencies are represented by locally elected prosecutors or attorneys within a separate division of the state or county government. While there are numerous such attorneys who do a fine job for the child welfare agencies, there are others for whom child welfare work is a low priority. Problems with agency counsel exist in part because agencies do not know enough about the legal process to demand full and adequate representation and because of a lack of agency funding targeted for legal services. While it is clear that federal matching funds are currently available for agency counsel who assist agencies to administer the federal Title IV-E foster care program, the federal government has failed to clarify the availability of federal funding for agency counsel or to specify what services counsel must perform to receive federal funds.

The fundamental difficulty for courts in fully implementing the court related provisions of the Act is that they lack the time to conduct the additional steps required by the Act in a careful and complete manner. Secondarily, while there have been substantial improvements in the training and preparation of many juvenile court judges, significant numbers still lack sufficient knowledge and long term professional commitment to foster care related issues.

In many juvenile courts, the judges are operating under such caseloads and time pressures that the judges simply do not feel able to address issues mandated by the Act. When a judge has an enormous backlog of cases in which the judge must decide whether or not to authorize the removal of children from their homes, the judge may feel that there is time only to review the particular incident precipitating the present crisis, and not to inquire whether the agency has and might still provide services that will allow the child to remain at home. Similarly, when a judge has a docket or 40 foster care review hearings that he must finish in two hours, he obviously cannot conduct a careful examination of the current status of each case.

Why are many juvenile judges not given enough time to adequately carry out the provisions of the Act? One important reason is that some state court systems utilize obsolete methods of measuring judicial caseloads and allocating judicial positions. While foster care cases have become far more elaborate and demanding, judicial resources have not kept pace.

Fifteen years ago, before recent changes in the nature of child welfare litigation (brought about only in part by the Act), juvenile court cases involving child abuse and neglect were much simpler. At that time, the role of the court was generally limited to presiding over a single hearing concerning the alleged maltreatment of the child in which attorneys seldom appeared. Now, there are frequently a whole series of hearings as the child moves through the system, including, among others, an emergency placement hearing, a fact finding hearing (to see whether the allegations are true), a disposition hearing (to decide where the child will be placed and under what conditions), a series of judicial oversight hearings while the child is in foster care, and, far more often in recent years, lengthy hearings to legally free the child for adoption.

Compounding the increases in the numbers of hearings that the judge must deal with is the fact that at the same time, law and procedure has become more sophisticated and individual cases more demanding. As agencies have struggled to provided permanency for foster children and have used the courts more aggressively to accomplish this, state statutes dealing with foster care cases have become more elaborate, hearing procedures have become more formal, more written decisions have been handed down by appeals courts, and many more legal publications have been written. These are all healthy developments in the law and ultimately necessary to achieve permanent homes for children in foster care, but the new demands on court systems have sometimes outstripped the courts' capacity to assimilate the changes.

Why have some state and local court systems failed to allocate enough resources to meet the increasing demands for judicial time in foster care cases? In part, this has occurred because of competition for scarce resources, the failure of state legislatures to provide new funds, and some court administrators'decision to place a low priority on cases involving maltreated children (as opposed to lawsuits involving large amounts of money or serious criminal offenses.) But another important reason for the lack of resources for foster care cases is that too few legislators and judicial administrators have been brought up to date in their understanding of the changing nature of these cases the obsolete methods of measuring judicial caseloads and allocating judicial time reflect this lack of understanding. For example, we found that in one ingenious urban court, the judge would assign a separate docket number and prepare a separate court file for each sibling in a family, in order to expand the number of official cases controlling judicial assignments. This would not have been necessary if the court administrators in that state had put in place an appropriate formula for case allocation. The federal government has taken no steps to assist courts to address this problem.

Indeed, it is fair to say that the federal government has substantially contributed to the problem of inadequate judicial resources to meet the court related requirements of the Act. That is, the Adoption Assistance and Child Welfare Act of 1980 makes substantial demands upon the courts, but provides no assistance to the courts to meet these demands. The Act provides financial incentives to ensure that these requirements are met but, ironically, all the incentives are directed to the child welfare agencies rather than to the courts. That is, the Act provides federal money to a state or county child welfare agency that is contingent on certain actions being taken by the courts. The agencies are required to press the courts to comply, for fear of losing their federal funds to themselves. The courts, however, are neither given comparable federal incentives nor the financial means to comply. The result in some jurisdictions, as explained earlier, is that courts will make a record sufficient to meet federal audit requirements but without conducting a meaningful judicial inquiry as contemplated by the Act. Unfortunately, federal audit requirements and regulations do not go beyond merely requiring that particular words be recited in the court order.

Still another reason for the lack of judicial time for foster care cases is that some courts have not kept up with advances in court rules and procedures that can help avoid unnecessary court related delays and inefficiencies. For example, the ABA Foster Care Project has developed a comprehensive set of court rules designed to help avoid needless delays in foster care cases as well as to ensure more careful and well focused hearings (The ABA House of Delegates and Board of Governors have not considered these rules and thus they do not constitute ABA policy). Most court systems have not yet comprehensively examined their court procedures in foster care cases to consider the solutions proposed in our suggested rules.

While the federal government has quite rightly provided matching funds for child welfare agencies to assist them in ending needless casework delays and inefficiencies (resulting in reductions in foster care placements and in the time children remain in foster care), no comparable federal resources have been provided to the court system. Yet, the court process is integral to foster care planning and decision-making. Carefully targeted federal funds for state court systems, to: (a) help them make improvements in judicial manpower allocations in foster care cases, (b) improve judicial case management, and (c) modernize court rules and procedures, could help make it possible for courts to fully implement the Act and to eliminate unnecessary foster care caused by court delays.

An interesting twist to the funding scheme set forth in the Act concerns the provisions for periodic review. 42 U.S.C. §675 requires review once every six months by "a court or by administrative review" and a hearing to determine the long term plan for the child within eighteen months and periodically thereafter by a court or "by an administrative body appointed or approved by the court." While the Act contemplates that such a proceeding might be conducted by a court, it creates strong fiscal incentives for their being conducted by the agency. This is because child welfare agencies can receive matching funds for conducting the reviews, pursuant to 42 U.S.C. §674, but entities external to the agencies cannot. Any yet, the purpose of the hearings is to take an objective and disinterested look and make an objective and disinterested decision concerning the case.

This anomaly does not only affect proceedings conducted by the courts themselves. The legislative history of the Act demonstrates that Congress contemplated that periodic reviews might be conducted not only by courts and agencies, but by panels of trained citizen volunteers. Yet, in states that have chosen to use court appointed "citizen review boards" to periodically review foster care cases and report to the courts, federal matching funds are not available to pay the administrative costs of operating such boards. On the other hand, if review is conducted entirely by agency staff, federal matching funds are available to pay 50% of the cost. It is difficult to see a practical reason why review by agency staff should be funded, but the staff costs of administering review by court appointed citizen volunteers should not.

Another contributing factor to the problem of inadequate judicial time and resources for implementing the Act is that some judges handling foster care cases in juvenile court lack sufficient knowledge and interest in the requirements of the Adoption Assistance and Child Welfare Act and in planning for children in foster care in general. This is partly due to the fact that in many areas judges rapidly rotate in and out of juvenile court, while in others juvenile court proceedings represent a small part of a judge's caseload.

Also important, however, is that many states have no objective practices to require selection of judges specially qualified for juvenile court proceedings and to require special training for juvenile court judges handling cases involving maltreated children. Such selection and training is very necessary because child protection litigation has become increasingly complex as discussed earlier, because child protection cases in juvenile court operate under a special code and with special procedures, because child protection proceedings involve highly sensitive social work and mental health issues, and because the judge needs to be knowledgable concerning services available to families and children and concerning the workings of the child welfare agency.

Again, there is a lack of federal incentives for the training of judges. While the Act provides a 75% match for the training of agency staff administering the Title IV-E foster care program (which has helped bring about impressive gains in staff competence), it provides no funding for the training of judges.

Recommended Amendments to Improve the Performance of the Legal System in Foster Care Cases

Based on the above discussion, I offer the following recommendations for amendments to the Adoption Assistance and Child Welfare Act of 1980:

1. Title IV-B of the Social Security Act should be amended to require states to establish a set of preventive and reunification services that will be provided on a consistent, statewide basis.

As explained above, this recommendation is necessary both to strengthen and rationalize the pattern of state services and to permit lawyers and judges to evaluate the services being provided in individual cases.

2. Title IV-B should be amended to require child welfare agencies to provided detailed reports concerning the preventive and reunification services available throughout the state. Such reports should include at least a description of services provided; who is eligible for each type of services, including any priorities concerning who will receive the services; where in the state the services are available; and what are the usual waiting periods for each type of service throughout the state. The Act should require that these reports be sent to judges and judicial administrators as well as to other agencies and to the legislature.

As discussed above, such reports are needed in part so that attorneys and judges will have enough information to intelligently critique what services are being provided to the child and family in an individual case. In addition, such reports can assist agencies and legislatures to more rationally plan for services.

3. Title IV-E of the Social Security Act should be amended to require state and county child welfare agencies to provide written descriptions of their efforts to preserve families in each case, in advance of the court proceeding in which the court determines whether the agency has made "reasonable efforts" and in advance of any subsequent judicial oversight hearing.

As explained earlier, this recommendation is necessary to help ensure that attorneys and judges have sufficient information so the court can knowledgably review the case and effectively carry out its functions pursuant to the Adoption Assistance and Child Welfare Act of 1980. This requirement would place no significant additional burden on child welfare agencies, since they are already required to put such information into writing as part of their case plan or in the record of their periodic reviews.

4. Title IV-E should be amended to clarify that child welfare agencies are entitled to matching funds for the assistance of counsel in administrating the IV-E program, including assisting the agency in securing judicial actions called for by Title IV-E and IV-B. However, these matching funds should be available only if counsel assists the agency at all stages of the juvenile court proceedings, is available to confer with agency staff between and in advance of court proceedings, and is available to help train agency staff. Such funds should be available to be used for local prosecutors or attorneys technically employed by other branches of the state, county, or municipal government, such as the attorney general's or county counsel's office. The federal government should be required to adopt implementing regulations pertinent to this provision.

As explained above, state and local child welfare agencies need the full and effective assistance of counsel so that they can assist the courts to fully implement the court related requirements of the Act. The Act already allows the use of matching funds for attorneys working for the agency, probably including local prosecutors specially assigned to the agency. The primary effect of this amendment would be to impose minimum standards for such representation, as a condition of federal funding. Agencies would then be in a stronger position to demand or provide full legal representation, in exchange for passing through the federal funds to help pay for the attorneys.

5. Title IV-B or IV-E should be amended to provide for the payment of a lump sum to state supreme courts or state court administrators, for the purpose of:

(a) Preparing a statewide analysis of judicial caseloads and judicial practices in allocating and measuring judicial caseloads in relation to juvenile court child protection cases;

(b) Improving judicial practices in allocating and measuring judicial caseloads to assure adequate court time in juvenile court child protection cases;

(c) Preparing a statewide analysis of the courts' thoroughness and procedural correctness in their implementation of actions called for by Titles IV-E and IV-B;

(d) Preparing a statewide statistical summary, analysis, and commentary concerning the timely scheduling and the length of time from filing to completion of child protection proceedings including but not limited to adjudications, dispositions, reviews, and termination of parental rights hearings;

(e) Analyzing and improving recruitment practices for judges and other judicial officers such as referees and magistrates who hear child protection cases; and

(f) Training juvenile court judges and other judicial officers concerning planning and decision-making for foster children and children at risk of foster care, including training covering both legal and nonlegal issues.

The formula for the allocation of the lump sum federal payments among the states should be based upon the number of children in state supervised foster care, but with a minimum sum for small states.

This recommendation is designed to address the problems described above, concerning the allocation of judicial time for foster care related cases, and the training and selection of judges handling cases involving children in foster care. Money would be allocated directly to the state supreme court or judicial administrator, because that is who has the most power to effect necessary changes. The lump sum allocations would only be used to pay for preparing studies, conducting foster care related judicial training, and making administrative changes to improve child protection proceedings.

6. Title IV-E should be amended to permit the payment of federal matching funds for the payment of administrative costs of citizen review boards that are not administered by state and local child welfare agencies.

As explained above, current law provides federal matching funds for review conducted by agencies but not by courts or citizen review boards. Since citizen review boards are conducted by panels of trained citizen volunteers, they constitute an objective and cost-effective means of conducting periodic reviews. Accordingly, matching funds should be available on the same basis as they are available to agencies.

7. Title IV-B or IV-E should be amended to provide lump sum incentive payments to help courts implement the court related provisions of the Act. Payments should be made to the state supreme court or court administrator, who should be free to spend or distribute the funds among the courts for the purpose of improving foster care related

court proceedings. Payments should be allocated among the states based on the same formula described in Recommendation 5. Beginning two years after the adoption of the amendment, payments should only be made to states in which:

> (a) Delays in child protection court proceedings (as described in Recommendation 5) fall below acceptable national norms established by regulations adopted by the United States Department of Health and Human Services (HHS), or such delays have been substantially reduced during the previous year, to an extent required by HHS regulations; and
>
> (b) Statewide court rules have been adopted that are designed to eliminate unnecessary delays in planning for children in foster care and to ensure thorough and procedurally fair proceedings.

This recommendation has two purposes. First, it provides funding to improve juvenile court proceedings involving children in foster care or at risk of placement into foster care. This amendment would provide funding to assist the courts to make improvements, but without taking over a substantial share of the cost of court operations. By comparison, the federal government presently funds a substantial percentage of state child welfare agencies' administration of foster care programs.

Second, this recommendation is specifically designed to encourage courts to eliminate needless court delays and to improve their procedures in child protection cases. For state courts to receive their share of the funds, they would be required either to do better than national standards for court delays set by HHS or to make substantial reductions in court delays every year until they could meet the national standards.

This amendment would be very cost effective, since court related delays extend the length of time that children remain in foster care. The lump sum payments would be more than offset by the reduction of federal foster care matching funds brought about by reductions in the length of stay of children in foster care.

This amendment would also require state courts to adopt mandatory court rules designed to eliminate unnecessary delays and to improve the quality of child protection proceedings. At this time, no such court rules exist in most states.

8. The Adoption Assistance and Child Welfare Act of 1980 should be amended to create an explicit cause of action for private litigants seeking to vindicate their rights under the Act.

As indicated above, courts have generally held that there is a private cause of action under the Act, allowing private citizens to use the courts to force child welfare agencies to comply with the Act. However, until this issue has been finally settled by the courts, it will continue to be a point of conflict and will complicate litigation under the Act. Since the passage of the Act, both individual court cases and large scale class action litigation have played a significant role in ensuring full implementation of the Act and clarifying its provisions. Therefore, the Congress should resolve the issue.

Acting Chairman **Downey**. Ms. Weinberg.

STATEMENT OF ANITA M. WEINBERG, ASSISTANT PUBLIC GUARDIAN, COOK COUNTY OFFICE OF THE PUBLIC GUARDIAN, CHICAGO, ILL.

Ms. **Weinberg**. Thank you.

I am an assistant public guardian in the Cook County office of the Public Guardian in Chicago. Our office employs 30 attorneys to represent over 10,000 children in placement. In my capacity as attorney and guardian ad litem, I represent children alleged to be abused or neglected in proceedings in juvenile court.

Before becoming a lawyer, I worked as a social worker for 5 years at the Child Welfare League of America. During the time Public Law 96-272 was being drafted, I worked closely with the league's Washington office and other child advocacy groups to see the law passed. I also worked with certain States to help implement programs mandated under this law.

I believe that State governments and public and private social service agencies are more sensitive to the needs of children in the child welfare system as a result of this first comprehensive Federal child welfare reform law and its fiscal incentives.

But there is more to be done. My remarks today are directed to aspects of the law that as a child's representative in Illinois, I still find problematic. My testimony can be summarized by identifying four areas of concern:

First, State governments and the agencies have not used the Federal law to develop prevention and reunification resources to meet the needs of children and families in the child welfare system. For this reason, some of the most important protections created by the law—case plans, findings of reasonable efforts, and periodic review determinations—are not being enforced to their full potential.

The second concern is that the interests of children are not always protected by safeguarding parents' rights. The law focuses on parents' rights; it also needs to protect children's rights. This is especially true in cases where the parents are no longer involved with their children, or parental rights have been terminated. The procedural safeguards so purposefully included in the law for parents should be applied to children as well.

A third concern is that the law hands the courts certain responsibilities, but not resources with which to meet them. Lacking the financial wherewithal and training resources, the courts have not developed along with the agencies in pursuing child welfare reform. The law needs to focus more attention on the legal and judicial process.

And last, the broad range of protections provided in the law could be maximized if Congress clearly established that the law does provide privately enforceable substantive rights.

How are children involved in abuse and neglect proceedings still being harmed after passage of Public Law 96-272?

Consider that evidence on reasonable efforts is not being heard.

Findings of reasonable efforts are made in the Court of Cook County in thousands of cases annually. Usually, however, these findings are not based on evidence. They are made as a matter of rote. Where evidence is presented, judges are finding the reasonable efforts requirement satisfied simply because services are unavailable.

The intent of Congress must be clarified; to meet the reasonable efforts requirement, efforts must be made to create adequate preventive services designed to avoid out-of-home placements and to encourage return home.

The act contemplated that there would be periodic findings during the course of a child's placement. These findings should determine to whether or not State agencies continued to make reasonable efforts to return the child home.

Unfortunately, the act does not specify the frequency with which these findings should be made. As a practical matter, they are not being made in our county.

The act should be amended to require judicial findings of reasonable efforts every 6 months during the period that the child is in placement. This should continue until the court makes the determination that the permanency goal should not be return home.

Children are being harmed because case plans do not ensure that a child receives proper care and services to facilitate return home or an alternative permanent placement.

In Illinois, the case plans tend to be drafted in broad terms and do not give parents or children a clear sense of what responsibilities must be undertaken to achieve the planned goals. A lack of services and creative thinking often limits the goals set forth in the case plans.

The goal of case planning in the law is family reunification whenever appropriate. But it facilitates only parent-child contact. Similar attention should be placed on facilitating sibling contacts.

Finally, the act does not require that a copy of the plan be provided either to the court or to the child's advocate. Our office represents over 10,000 children in foster care. The department refuses to routinely provide us with copies of plans.

The law should be amended to require that copies of the plans be provided not only to the parents, but to the child's advocate and to the courts.

Children also are being harmed because an internal agency body does not provide meaningful 6-month review of the service plan.

Illinois created an administrative body to conduct its month reviews.

One of its weaknesses is that reviewers paid by the department are aware that the department's inadequate resources and excessive caseloads create limitations and constraints. Decisions tend to be pragmatic, not necessarily those in the best interest of the child.

In Illinois, the administrative officer who reviews the plan only has the power to make a recommendation, not a determination. In this type of situation, part of the reviewers' responsibility should be to appeal any case plans that they do not endorse. I know of no instance in which an internal reviewer has done this.

While Public Law 96–272 specifically states that the review is open to the participation of the parents of the child, no mention is made of the right of a child, of their representatives to attend. In Cook County, attorneys for the child are not permitted to attend the reviews.

What can be done? The law should be amended to require that the child's attorney be given notice of the review and permitted to attend, and, that the necessary determinations be made by a body completely independent of the agency composed of citizens and professionals.

Preventive and reunification services are not being sufficiently developed. The act uses funding incentives to get States to develop service programs to prevent unnecessary placement of children in care and to reunite placed children with families.

To see just how this effort breaks down at the State level, however, consider Illinois. Just last winter, Illinois' State Legislature passed strong family preservation legislation. But at this time, the law is not funded.

Federal law should identify a minimal number of preventive services that must be provided statewide. In addition, Congress should consider requiring States to allocate a certain percentage of their budgets toward in-home services to prevent the needless removal of children.

Children are being harmed because they are denied both substantive and procedural due process.

I have already mentioned our concerns regarding a child's right to a case plan, participation in reviews, and sibling contacts.

Another important due process right relates to the child's placement. The act recognizes the parents' rights in this regard. It does not recognize the child's. The child should be afforded a preremoval administrative hearing prior to being removed from one foster home and placed in another.

This preremoval hearing need not be provided where the foster parent has requested that the child be removed, or where removal of the child is necessary to protect the child's welfare.

Public Law 96-272 was passed almost exactly 8 years ago. The Federal law is a critical vehicle to achieving permanency planning. The States are beginning to respond. We have come a long way thanks to your efforts, but we still have a long way to go.

Acting Chairman DOWNEY. Thank you.

[The statement of Ms. Weinberg follows:]

STATEMENT OF ANITA M. WEINBERG, ASSISTANT PUBLIC GUARDIAN, CHICAGO, ILL.

Thank you for the opportunity to testify before your committees today. My name is Anita Weinberg. I am an Assistant Public Guardian in the Cook County Office of the Public Guardian in Chicago. Our office employs 30 attorneys to represent over 10,000 children in placement. In my capacity as attorney and guardian ad litem I represent children alleged to be abused or neglected in proceedings in juvenile court and in state and federal litigation. Before becoming a lawyer, I worked as a social worker for five years at the Child Welfare League of America. During the time the Adoption Assistance and Child Welfare Act of 1980--Public Law 96-272--was being drafted, I directed the Resources for Permanence project at the League. As director I worked closely with the League's Washington office and other child advocacy groups to see 96-272 passed. I recall the ensuing struggles to ensure appropriations for the law, and to keep it from becoming a part of the social services block grant program. I also worked with certain states to help implement programs mandated under this law.

Public Law 96-272 was enacted to stimulate system-wide reform of the child welfare field and to benefit individual children and their families. Too often, child welfare agencies had unnecessarily separated children from their families. The children were then placed in foster care settings that did not meet their needs and that offered no prospect of returning home, or of placement in another, appropriate, permanent family. Fiscal incentives at the federal level unintentionally encouraged the break up of families and discouraged the provision of permanent families for children. Under 96-272 these incentives were redirected to help ensure permanence for children.

I believe that state governments and public and private social service agencies are more aware of--and sensitive to--the needs of children in the child welfare system as a result of this first comprehensive federal child welfare reform law and its fiscal incentives. But there is more to be done. My remarks today are directed to aspects of the law that as a child's representative in Illinois I still find problemmatic.

My testimony can be summarized by identifying four areas of concern:

First, state governments and the agencies have not used the federal law to develop adequate prevention and reunification resources to meet the needs of children and families in the child welfare system. For this reason, some of the most important protections created by the law are not being enforced to their full potential. Case plans, findings of reasonable efforts, and periodic review determinations are based upon available resources rather than the best interests of the child and family. **The agencies must be further challenged to develop additional services to enhance prevention and reunification efforts.**

The second concern is that the interests of children are not always protected by safeguarding parents' rights. The law focuses on parents' rights; it also needs to protect childrens' rights. This is especially true in cases where the parents are no longer involved with their children, or parental rights have been terminated. **The procedural safeguards so purposefully included in the law for parents should be applied to children as well.**

A third concern is that the law hands the courts certain responsibilities, but not resources with which to meet them. Lacking the financial wherewithal and training resources, the courts have not developed along with the agencies in pursuing child welfare reform. **The law needs to focus more attention on the legal and judicial process.**

And lastly, it is still debated whether or not the law was meant to provide a private cause of action. **The broad range of protections provided in the law could be maximized if Congress clearly established that the law does provide privately**

enforceable substantive rights.

How are children involved in abuse and neglect proceedings still being harmed after passage of Public Law 96-272?

EVIDENCE ON REASONABLE EFFORTS IS NOT BEING HEARD

I suspect you've heard alot about the interpretation problems of reasonable efforts. Under Public Law 96-272 children are not supposed to be eligible for federally reimbursed foster care unless reasonable efforts are made to prevent or eliminate the need for removal and to allow the child to return home. Findings of reasonable efforts are made in the Circuit Court of Cook County in thousands of cases annually. Usually, however, these findings are not based on evidence. They are made as a matter of rote. Where evidence is presented, judges are finding the reasonable efforts requirement satisfied simply because services are unavailable. **The intent of Congress must be clarified: to meet the reasonable efforts requirement, efforts must be made to create adequate preventive services designed to avoid out-of-home placements and to encourage return home.**[1]

The most critical reasonable effort that needs to be undertaken to facilitate reunification is visiting between children and their parents. Without adequate visitation plans children are not going to be returned home.[2] Throughout the country agencies are not adequately facilitating visitation between children and their parents. **The law should specifically address the importance of visiting as a reasonable effort.**

The Act contemplated that there would be periodic findings during the course of a child's placement. These findings should determine whether or not state agencies continued to make reasonable efforts to return the child home. Unfortunately, the Act does not specify the frequency with which these findings should be made. As a practical matter, they are not being made in our County, except at the dispositional stage, and those findings are based not on evidence but on rote. **The Act should be amended to require judicial findings of reasonable efforts every six months during the period that the child is in placement. This should continue until the court makes the determination that the permanency goal should not be return home.**

The provision regarding reasonable efforts requires judicial time to hear evidence; knowledge by the court and party representatives of the agency resources; and financial resources to provide needed services. The courts and legal representatives are expected to take the time to hear evidence, and to develop the expertise necessary to make a reasonable efforts finding. But they receive no funds to undertake this additional responsibility. The law puts pressure on the agencies; the courts do not suffer for failing to adopt the requirements of the law. **We need to somehow target some money to the courts and encourage them to take a thorough look at what they are doing in the child welfare field. Juvenile courts are not a high priority within state systems. Without federal involvement little more can be expected.**

COURTS ARE NOT MAKING THE REQUIRED DISPOSITIONAL FINDINGS RELATING TO PERMANENCY PLANNING

Under 42 U.S.C. 675(5)(C) a dispositional hearing must take place within eighteen (18) months of the date of the original foster care placement and periodically thereafter. At that hearing a decision is to be made as to whether or not the child should be returned home, placed in short term foster care, placed for adoption, or placed in long term foster care (because of the special circumstances of the child).

The law created a two-tiered review system to provide checks and balances. Congress meant for children to have the benefit of both a frequent (six month) periodic check on their progress in care, and a periodic (18 month) determination of their future status by a body authorized by the court and external to the social service agency. Both these reviews are meant to prevent children from lingering in foster care without deliberate planning.

Illinois law does provide a dispositional hearing. These hearings sometimes occur within 18 months after placement. Unfortunately, the dispositional hearing called for under state law bares little resemblance to the federal requirement. In practice, the state court only considers whether the child should remain in placement with the state agency or return home. These are comparatively easy questions. The more difficult question is, if the child cannot be returned home at the time of disposition, what should be the permanency goal? In Illinois, the courts in only a handful of counties answer this question.

Due to crowded court calls, lack of training, and lack of funding, these 18 month reviews are rarely a further check.

Through the federal law, the government in effect is paying the agencies to pressure the courts to do things that the courts have no "self interest" in doing. At the same time, agencies lose funding if the courts do not carry out their responsibilities. Under 96-272 the courts are asked to undertake some critical responsibilities --for example, ensure 18 month dispositional hearings and make findings as to reasonable efforts.

The requirements on the court for overseeing the 18 month reviews raise similar concerns to the court's responsibility to undertake reasonable efforts hearings. **Public Law 96-272 focuses on the child welfare agencies. More attention needs to be paid to the judicial and legal process.**

CASE PLANS DO NOT INSURE THAT THE CHILD RECEIVES PROPER CARE AND SERVICES TO FACILITATE RETURN HOME OR AN ALTERNATIVE PERMANENT PLACEMENT

Under the federal law, written case plans must be developed by the state agency for each child in care. 42 U.S.C. 675(1) requires:

> ...a plan for assuring that the child receives proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, includng a discussion of appropriateness of the services that have been provided to the child under the plan.

The purpose of case plans is to document the agency's plans for a child and set specific goals or timetables against which a child's progress can be measured. The plan is the document considered during the six month reviews required under the law. Illinois law requires that these case plans be completed 30 days after a case is heard in court.

But in Illinois the case plans tend to be drafted in broad terms and do not give parents or children a clear sense of what responsibilities must be undertaken to achieve the planned goals. Too often they are not tailored to the needs of the individual child and family, but tend to be prepared by rote. A lack of services and creative thinking often limits the goals set forth in the case plans. A lack of foster homes near parents' homes frustrates the case plan requirement that efforts be made to place children near their parents, and to facilitate visiting between children and parents, and between siblings placed in different foster homes. The goal of case planning in the law is family reunification whenever appropriate. But it facilitates only parent-child contact. Similar attention should be placed on facilitating sibling contacts. This is important for successful family reunification. It is equally important to the child when parents are no longer in the picture.

Currently there is no impetus to develop new resources. **The law could empower juvenile court judges to order services.** In New Hampshire, when juvenile court judges began to order the Department to provide specific services, the resources were developed.

Finally, the Act does not require that a copy of the plan be provided either to the court or to the child's advocate. That omission is a serious flaw. Our office represents over 10,000 children in foster care. The Department refuses to routinely provide us with copies of plans. It does file with the court copies of the service plans of some children. It does this only after disposition. Information in the plan is essential to effective advocacy for the child. **The law should be amended to require that copies of the plans be provided not only to the parents but to the child's advocate and to the courts.**

AN INTERNAL AGENCY BODY DOES NOT PROVIDE MEANINGFUL SIX MONTH REVIEW OF THE SERVICE PLAN

The federal law requires a review of each child in foster care either by a court or administrative body. Illinois has opted for the administrative body. The review must insure that the case plan is designed to achieve placement in the most family-like setting and in close proximity to the parents' home, and meet the best interest and special needs of the child. The review must also determine the continuing necessity and appropriateness of the current placement; the extent of compliance with the case plan; and the extent of progress towards alleviating the causes of foster placement. And it must project a likely date by which the child may be returned home or placed for adoption or legal guardianship. 42 U.S.C. 675(5)(A)(B).

Illinois created an administrative body to conduct its six month reviews. The strength of Illinois' internal review is that while part of the Department of Children and Family Services, the review body is run by a unit separate from the agency's direct services. The weakness of any type of internal review, however, is that even a sub-division of the agency is not entirely impartial. Reviewers paid by the Department are aware that the department's inadequate resources and excessive caseloads create limitations and constraints. Decisions tend to be pragmatic, not necessarily those in the best interest of the child. A review of the legislative history of the public law indicates that Congress intended states to create new services to effectively provide permanence for children.[3]

There are benefits and disadvantages in giving the reviewer power to make a determination. In Illinois, the administrative officer who reviews the plan only has the power to make a "recommendation," not a determination. In this type of situation, part of the reviewers' responsibility should be to appeal any case plans that they do not endorse. I know of no instance in which an internal reviewer has done this.

While 96-272 specifically states that the review is open to the participation of the parents of the child, no mention is made of the right of a child, or their representative to attend. In Cook County, the attorneys for the child are not permitted to attend the reviews.

What can be done?

The law should be amended to require:

1. That the child's attorney be provided with notice of the Administrative Review.

2. That the child's attorney be permitted to attend the Administrative Review.

3. That the necessary determinations be made by a body completely independent of the agency composed of citizens and professionals. This model would increase the likelihood that case planning will first and foremost consider the needs of the child and family rather than those of the agency. It will also provide a source of objective persons to advocate for systemic change on behalf of children and families.

If the option for review by an administrative body is left open, Congress should consider ways to encourage external review. Currently the law encourages states to keep reviews internal since agencies can receive federal funds to support internal review; court and citizen bodies cannot.

PREVENTIVE AND REUNIFICATION SERVICES ARE NOT BEING SUFFICIENTLY DEVELOPED

The Act uses funding incentives to get states to develop service programs to prevent unnecessary placement of children in care and to reunite placed children with families.[4]

To see just how this effort breaks down at the state level, however, consider Illinois. Just last winter, Illinois' state legislature passed strong family preservation legislation amending provisions of the Abused and Neglected Child Reporting Act, the Department of Children and Family Servies Act, and the Juvenile Court Act--Public Act 85-985. The purposes of the amendments include preventing the unnecessary removal of children from their families; facilitating the reunification of children in foster care with their families; and providing support for adoptive families. The Act requires that the Department notify children and families of the Department's responsibility to offer and provide family preservation services as identified in the service plan. And it identifies family preservation services that may be included in the service plan--homemakers, counseling, parent education, day care, emergency assistance and advocacy, respite care, in-home health care, transportation to services, medical assistance. These services are to be phased in over five fiscal years.

But at this time the law is not funded. Three million dollars are set aside in the Governor's budget currently under consideration. This is far from an estimated $10 million needed for successful start up. Originally the services were written in as an entitlement program, but that was changed by the Governor's amendatory veto.

Federal law should identify a minimal number of preventive services that must be provided statewide. These might include: day care, respite care, emergency housing, emergency financial assistance, transportation expenses for visiting and attending required counseling. Only with the mandate of these family preservation services can a child's right to remain home or return home as a first option be protected. In addition, Congress should consider requiring states to allocate a certain percentage of their budgets toward in-home services to prevent the needless removal of children.

CHILDREN ARE DENIED BOTH SUBSTANTIVE AND PROCEDURAL DUE PROCESS

Case Plans

As noted above, children are frequently denied procedural protections that are guaranteed to their parents. For example, parents are guaranteed a copy of the service plan. In my county, children and their representatives are denied copies of this plan. Parents and their attorneys are guaranteed participation in the six month reviews. The children and their attorneys are denied this opportunity. Under Illinois departmental regulations, the child can participate only if the caseworker believes it would be in the child's best interest. **The protections provided to parents under the Act should also be applied to children.**

Placement

Another important procedural due process right relates to placement. The Act recognizes the parents' rights in this regard. It does not recognize the child's. **The child should be afforded a pre-removal administrative hearing prior to being removed from one foster home and placed in another.** This pre-removal hearing need not be provided where the foster parent has requested that the child be removed, or where removal of the child is necessary to protect the child's welfare.

Sibling visits

Parents are guaranteed a substantive right to maintain visits with their children. At these visits, children often are given the opportunity to visit with their brothers and sisters. If the parent does not show any interest in visits, sibling visits are rare. For many children in placement, the relationship with siblings is as important as the relationship with parents. **The Act should be amended to guarantee sibling visits and efforts to maintain sibling relationships regardless of the parents' interests in participating in a visiting plan.**

THE ACT SHOULD BE AMENDED TO SPECIFICALLY PROVIDE FOR PRIVATE ENFORCEMENT

There has been much litigation discussing whether or not this Act gives children a private cause of action.^{5} Current case law would suggest that it does. There have been, however, court rulings otherwise. In addition, there is no assurance that on appeal the Supreme Court would find such a right of action. **In order to resolve a matter without resorting to further litigation, the Act should be amended to specifically provide for private enforcement through law suits in both federal and state courts.**

At a minimum, children who have been injured by the state's failure to comply with the law should be able to seek injunctive relief. Congress should consider whether or not to extend this private cause of action to permit a child to recover damages from anyone who intentionally or willfully and wantonly vioates the child's rights under this action.

CONCLUSION

Public Law 96-272 was passed almost exactly eight years ago. Most of my testimony has focused on weaknesses in the law that could only be identified after implementation. The federal law is a critical vehicle to achieving permanency planning. The states are beginning to respond. We have come a long way thanks to your efforts, but we still have a long ways to go.

NOTES

1. At the time of the passage of Public Law 96-272, Senator Alan Cranston stated of the reasonable efforts requirement:

> [T]hese sections are aimed at making it clear that States must make reasonable efforts to prevent the removal of children from their homes. In the past, foster care has often been the first option selected when a family is in trouble: the new provisions will require States to examine alternatives and provide, wherever feasible, home-based services that will help keep families together, or help reunite families. Of course, State child protective agencies will continue to have authority to remove immediately children from dangerous situations, but where removal can be prevented through the provision of home-based services, these agencies will be required to provide such services before removing the child and turning to foster care. These provisions, I believe, are among the most important aspects of this legislation. Far too many children have been broken apart when they could have been preserved with a little effort. Foster care ought to be a last resort rather than the first.

126 CONG. REC. S6942 (daily ed. June 13, 1980).

2. For a discussion on the importance of visiting, see, for example: Fanshel, David and Shinn, E.B., Parental Visiting of Children in Foster Care: A longitudinal study, New York: Columbia University (1978); Fanshel, David, Parental Visiting of Children in Foster Care: Key to Discharge? Social Services Review 49:493-514 (December 1975); Hess, Peg, Parent-Child Attachment Concept: Crucial for Permanency Planning, Social Casework 63(1):46-53 (1982).

3. "The testimony made clear that there is a need not only for improved Federal funding, but also for new requirements in the law to assure that State programs include a variety of services to prevent the need for foster care, as well as to protect children who, despite such services, nonetheless must be placed in foster care."

H.R. REP. NO. 136, 96th Cong., 1st Sess. 28 (1979).

4. A review of the legislative history indicates this goal:

The time needed to develop comprehensive emergency, preventive and restorative services...preclude sudden improvements. However, it is expected that the States will effectively use their new funds to accomplish measurable improvement over a reasonable length of time.

H.R. REP. NO. 136, 96th Cong., 1st Sess. 44 (1979).

5. Compare Scrivner v. Andrews, 816 F.2d 261, 264 (6th Cir. 1987) and In re Scott County Master Docket, 672 F. Supp. 1152, 1200-1205 (D. Minn. 1987) (holding that Public Law 96-272 is a funding statute and does not supply a private cause of action) with Lynch v. Dukakis, 719 F.2d 504 (1st Cir. 1983) and J. L. Massinga, 838 F.2d 118 (4th Cir. 1988) (finding a private right of action under the law).

Acting Chairman DOWNEY. Mr. Burton.

STATEMENT OF J. RANDOLPH BURTON, SPOKESPERSON, JUSTICE FOR CHILDREN, HOUSTON, TEX.

Mr. BURTON. Thank you.

I am an attorney and currently an associate in the law firm of Kennedy, Burleson & Hackney. I am the former chief prosecutor of the family offenses section of the Harris County District Attorney's Office in Houston. I am also the founder and spokesperson for a community-based child advocacy group called Justice for Children. On behalf of the group, I would like to thank you for the opportunity to testify today.

Justice for Children is the advocate of the children in our community who have been, are, or will be abused or neglected.

Our group's basic position is that the current system denies our children equal protection and due process by limiting advocacy to a social agency which is also the advocate for the perpetrator of the abuse.

The problems of these children have come to be viewed as family problems and the requirements, needs, and values of the law enforcement entities are also abused and denied. Typically, the child has been left at the mercy of a nonjudicial family solution assumed by Children's Protective Services to be the best, if not the only, remedy, and one passively approved by law enforcement. The CPS assumption has literally proved to be a fatal one.

This outcome is the inadvertent result of Federal legislation, Public Law 96-272, which provides financial incentives for rehabilitation of the perpetrator and preservation of the family unit. This legislation has been interpreted by CPS as requiring them to preserve families or lose their Federal funding.

As a consequence, CPS' agenda is to preempt the authority and responsibilities of law enforcement entities in order to ensure their control of the process.

The tragic results of allowing CPS to set the agenda for law enforcement would appear to be the deaths of 20 children in 1986 due to abuse and neglect in Harris County, Texas, alone. These came in cases in which CPS was aware of a current or prior case of abuse or neglect. Caseworkers, sometimes teams of caseworkers, made deliberate decisions not to involve the police.

In my written testimony, I have detailed two specific instances that illustrate the points I am trying to make. I do not want to take the committee's time by going into those cases here. However, I would urge the members of the committee and the staff to review those cases, because they demonstrate the great and oftentimes tragic lengths to which one agency will go in order to preserve the flow of Federal dollars into its program.

There are countless other instances in which CPS has preempted and prevented police involvement in an effort to cover up its mistakes, prevent interference with the goal of preservation of the family unit, or because its staff believes no crime exists.

Such cases have created a fire storm of adverse community reaction over the past two years resulting in the formation of Justice for Children, an ongoing Texas Senate investigation, extensive and detailed media reports, investigative stories, interviews, and editorials.

Investigations into CPS are being conducted by the Texas Department of Human Services, county and local governments, and law enforcement agencies.

From its inception, Justice for Children has held the consistent position that the sole authority for intake and investigation of criminal cases must be placed in the hands of the police.

However, we believe that whatever is done along these lines at a State and local level, the problems that have arisen as a result of the funding incentives in Public Law 96-272 must be addressed by the Federal Government.

We believe this because nothing else, including the funding and expenditure of $896 million by CPS over the past 10 years in Texas, has provided even a trend in the reduction of child abuse.

The system is a national failure; in Texas, child abuse has doubled under it.

We hear from every quarter that to change the system will cost dollars and in many, if not in most instances, we are told that the current process is saving us a lot of money. For example, under the current system, we save money by not requiring police participation in cases clearly involving a felony; not requiring the DA's participation since CPS decides which cases should be referred to the criminal courts and which ones should not; not needing the court system because CPS is determining the guilt or innocence of the perpetrator; not needing the prison system because the perpetrator goes into counseling instead of into jail; not needing the parole system because CPS decides when the perpetrator has been rehabilitated.

The sad and tragic fact is that no money has been saved, considerable amount may have been inadvertently misapplied, and the children left at unacceptable risk to the community.

The agency designed to protect abused children has lost sight of its purpose. Its administrators and many of its caseworkers have become more concerned with protecting the system than the children.

No one can be satisfied with the current situation that shows $6,256,664,000 in Federal funding alone since 1981 for child welfare, foster care and adoption activities, while the incidence of child abuse continues to increase at an epidemic pace; a chronic shortage of caseworkers continues to exist according to CPS; nothing is being done to resolve the conflicts between the criminal justice system and CPS; CPS' appetite for preemption of authority continues unabated; and law enforcement officials continue to sweep the problem under the rug. All of the money in the world will not help without fundamental changes in the authority, policy and procedures of CPS.

This committee should seriously examine the following in its search for solutions:

One, clarifying the legislative intent of Public Law 96-272 and related Federal statutes to ensure that the principal priority of CPS is the protection of the child, not the preservation of defective family units.

Reasonable efforts to prevent or eliminate removal of the child from the home does not mean every possible effort. As one author has stated, "No effort is reasonable effort where serious abuse or neglect is suspected."

Two, the possibility of reallocating Federal funds to include grants for child abuse units for increased law enforcement presence, training and responsibilities.

Three, the emphasis of quality foster care and emergency care alternatives, rather than relying upon rigid funding formulas and incentives toward in-home services. We must have effective procedures to actually protect the child while in protective custody.

Four, removal of CPS from direct criminal intake and investigation. Common sense would dictate that police should refer cases to CPS, not vice versa, with any civil investigation subordinate to the police investigation.

Five, providing independent review of the process. This independent review should include the ability to audit files and forward its findings to a forwarding point independent of the child abuse system. Pubic Law 96–272 currently provides for such a periodic audit of the programs and in Texas this has shown no real benefits thus far.

Six, providing national education, training and standards for CPS case workers.

Seven, establishing criteria to be used nationwide for retaining minimums for when a child must be removed and parental rights terminated.

In conclusion, our community is prepared to accept some dislocation of the family relationship in reference to death by torture of the child, just as the children are part of that community, and one of its goals should be part of that solution, not part of the children. From its inception, it has been made clear elimination of CPS is not one of its goals. We believe a solution acceptable to all reasonable parties is possible when the roots of the problem are exposed and the excesses of ideology curbed.

We believe the most correct and efficient balance of the needs of adult entities of the children's protective networks should be in place. Only when this is the case is it possible to maximize the top priority, protection of the rights and the physical and psychological safety of a child.

In a similar set of circumstances, a social observer once posed the following question: These are our children. If we will not help them, if we will not care for them, if we will not love them, then who will? The answer then, as the answer now, the community will for the community must or the community is lost.

[The statement of Mr. Burton follows:]

STATEMENT OF RANDY BURTON

FEDERAL FUNDING AND ITS IMPACT ON THE PRIORITIES OF CHILDREN'S PROTECTIVE SERVICES

My name is Randy Burton. I am an attorney and am currently an associate with the law firm of Kennedy, Burleson & Hackney. I have been designated as the "Outstanding Young Lawyer of Houston" for 1987/1988. I am the former Chief Prosecutor of the Family Offenses Section of the Harris County District Attorney's Office in Houston. I am also the founder and spokesperson for a community based child advocacy group called "Justice For Children."

Justice For Children is the advocate of the children in our community who *have been, are, or will be abused or neglected.*

The basic position of this group is that the current system denies our children equal protection under the law and due process while limiting advocacy to a social agency which is also the advocate for the perpetrator of the abuse.

This agency, Children's Protective Services ("CPS"), has arrived at the position of dominance in this area through preemption of the authority and responsibility of law enforcement entities and the passive default of these entities of their authority and responsibility.

The problems of these children have come to be viewed as "family problems" and the requirements, needs, and values of the law enforcement entities are also abused and denied. Typically, the child has been left at the mercy of a non-judicial "family solution" assumed by CPS to be the best, if not the only, remedy and one passively approved by law enforcement. The CPS assumption has literally proved to be a fatal one.

This outcome is the inadvertent result of federal legislation, P.L. 96-272, which provides financial incentives for rehabilitation of the perpetrator and preservation of the family unit. This legislation has been interpreted by CPS as their passport to the preemption of the authority and responsibilities of law enforcement entities.

The tragic results of allowing CPS to set the agenda for law enforcement would appear to be the deaths of twenty children in 1986 due to abuse and neglect in Harris County, Texas, alone. These came in cases in which CPS was aware of a current or prior case of abuse or neglect. Jesse Wheeler, Stephen Joel Cox and Darrel McFadden died in 1987 from child abuse in situations where previous or current case histories showed abuse by family members. Caseworkers, sometimes teams of caseworkers, made deliberate decisions not to involve the police.

Cases where children die from physical abuse and neglect represent a small portion of the total incidence of child abuse. One example of a case where a child did not die involved a 14 year old girl who suffered as a victim of an ongoing felony; the aggravated sexual assault by her stepfather from age 12 to 14. As you will see, this was compounded by the fact that no one in authority treated the situation as the commission of a serious crime. It is revealing to examine the chronological development of this case.

> °January 21, 1985. The child, Cheryl, reports her rape to her school counselor who, according to school policy, refers the case the same day to CPS as an "emergency" or high priority case because the little girl was afraid to go home. The counselor is told that a caseworker is unavailable, so the child is sent home.
>
> °January 22, 1985. The CPS caseworker interviews Cheryl and decides to place her in an emergency shelter

with voluntary sign-in and sign-out privileges by her parents.

°January 24, 1985. Not surprisingly, Cheryl is signed out by her parents and the mother attempts to transfer Cheryl to another school. Mother tells Cheryl's school nurse that the stepfather "didn't mean anything . . . he just does that and it's okay . . . Cheryl doesn't care."

°January 25, 1985. The nurse receives reports that Cheryl is stating to other students that she is being raped. When the caseworker is contacted, she states that she will wait a week before contacting the family and that she is going to "work with the family."

°February 1, 1985 to February 25, 1985. The nurse places numerous calls to the caseworker, informing her that the child fears she might be pregnant (no medical exam had been conducted by CPS as of February 25, 1988). The nurse notes that Cheryl is crying at school much of the time and complains that she is being punished by her mother, told she is a whore and accused of "telling." During this period, the nurse contacts the Sheriff's Department and speaks with a detective in the child abuse unit who tells her that a report has been filed but, since there has been no follow up by CPS, there can be no follow up by his department. (The perception of law enforcement authorities has been so distorted by CPS preemption that a law enforcement officer is waiting for approval from the employee of a social agency before he answers a call that indicates a felony in progress.) In order to expedite the process, the nurse asks her state representative to speak with CPS. The CPS Regional Director responds that "the child is happy and the father is in counseling. The nurse checks and the best information available is that the father was not in counseling. The caseworker decides to place Cheryl in protective custody because her mother is denying the abuse and the stepfather has not called the caseworker as requested. In an interview on this date, Cheryl states that she has been raped since she was 12 years old and that the last assault occurred three days ago.

°February 28, 1985. The CPS Regional Director contacts the school superintendent to criticize the school nurse, counselor and principal for being insensitive to the CPS "cause."

°March 6, 1985. A medical exam is finally done which supports allegations of sexual assault. CPS restricts the nurse from speaking with the child or bringing her clothing. The nurse is also told by CPS that Cheryl lied about the rape. The nurse learns from a friend of Cheryl's that she is feeling suicidal and is receiving threatening phone calls from her mother.

°March 14, 1985. Cheryl tells the school counselor that she "can't talk to anyone until she confesses that is was all a lie."

°March 19, 1985. CPS checks the child out to her parents.

°March 27, 1985. Cheryl tells the school counselor that she feels sick and is afraid to go home. She threatens to kill herself.

°March 28, 1985. With the assistance of a private child guidance counselor, the nurse and counselor at Cheryl's school are able to convince the CPS caseworker to interview Cheryl again. The process for a second interview takes almost an additional month.

°April 23, 1985. At this meeting, Cheryl states that she is still being raped. The caseworker now states that she believes Cheryl, recommends the filing of charges to the Sheriff and places Cheryl in foster care. Charges are immediately filed with the District Attorney's Office.

°May 3, 1985. The case is "true billed" by the grand jury. Following Cheryl's placement in foster care, the Defendant's attorney obtains visitation privileges from the Juvenile Court. Cheryl's foster parent states that the Defendant contacts Cheryl on a daily basis and encourages her to run away.

°May 20, 1985. The Defendant removes Cheryl from school for three days and takes her out of the state.

°September 8, 1985. In accordance with my assignment to prosecute the case, I have my first meeting with Cheryl. In this meeting, Cheryl recants her story. She also states that her mother would have to leave her brothers and sisters and get a job if her father goes to prison. When I contact CPS and speak with Cheryl's caseworker, I am told that if I want to see anything from their files on this case, I will need to go through the CPS attorney. Prior to trial, I set up another meeting to review Cheryl's testimony.

°October 20, 1985. The day before trial, I contact Cheryl's foster mother to meet with my witness and am told that she is under orders from CPS not to let any member of the District Attorney's Office speak with Cheryl without an attorney from CPS present. I am further informed that Cheryl will not be available in any event because she is visiting with the Defendant.

°October 21, 1985. Cheryl's case is tried to the court and Cheryl testifies. On the stand, Cheryl breaks down and tearfully tells the judge of how she has been repeatedly raped by the Defendant. The judge finds the Defendant guilty and, after a pre-sentence investigation, sentences him to ten years in the Texas Department of Corrections.

°February 28, 1986. The advisory board of CPS writes a threatening letter to the school board, stating that Cheryl's nurse as well as another school nurse "do not understand the role of our agency" and claim that their actions, including attempts to force CPS to take action in certain cases, are illegal and unethical, and imply the possibility of a lawsuit.

To close the illustration of this particular case, let's look at the outcome for the principals of this case.

°The perpetrator was sentenced to ten years with the possibility of parole after serving one third of his term.

°The natural mother, an accessory to the crime before and after the fact, was never charged and received no punishment.

°The victim was forced to submit for a period of ten months to aggravated sexual assault because the process excluded the participation of law enforcement authorities. The victim received a life sentence with no hope of parole.

I want to make a brief presentation of a second case that ended in the death of the victim.

Jesse Wheeler was only three months old when he and four older siblings were removed for chronic neglect from their natural mother, Jacqueline Warren. Jesse was hospitalized for several months before he was placed with foster parents, Sharon and Mike Wilkens, where he remained for almost a year and a half. This was a time of healing, recovery and happiness, and he was responding fully to parental care and love when he was removed from this environment and returned to the home of his natural mother and stepfather, Thomas Warren, on March 24, 1987.

Jesse was only two years old when this decision was made by a Harris County Juvenile Court judge in a hearing that considered the recommendations of CPS and Jesse's court appointed attorney, but never heard the opinions of his foster parents. The court returned Jesse, despite full knowledge of the natural mother's record of neglect, and evidence that the stepfather had been previously indicted for rape of his four year old daughter (another judge dropped the indictment on the grounds that the four year old's testimony could not be ruled upon because of her age).

This decision did not apply to Jesse's four older siblings. Jesse alone was placed in the environment that resulted in the systematic physical abuse by his stepfather with the acquiescence of his mother. The evidence proved that the stepfather had become enraged when Jesse refused to eat his pizza. Holes and hair were found in the sheetrock indicating that the child's head had been slammed into the wall. Pizza had been forced down his throat. His body had been bruised over 80% by shaking, kicking and hitting. Jesse's cause of death, which occurred on May 8, 1987, was listed as "blunt trauma to the head and asphyxiation."

Jesse alone was chosen as the social experiment to determine what others already knew: that the Warren home was no place to raise a child. At two years of age, Jesse could barely talk, much less protect himself or call for help. Jesse expressed his fear and frustration to his foster parents after a visit with his mother during the transition back "home": "Boy crying . . . baby crying."

The Children's Protective Services caseworker compounded the error of this tragic decision to return the child by leaving Jesse in the natural mother's home despite unmistakable signs of injury. Since CPS did not involve the police in the assessment, the viewpoint of law enforcement was never considered. Bruising and black eyes were apparently evident to the caseworker two days before Jesse's death, but no action was taken to remove him. Jacqueline and Thomas Warren were arrested and charged with first degree injury to a child. Both have pleaded guilty and have been sentenced to lengthy prison terms.

The most difficult thing for the community to accept about Jesse's case is that he had no advocate and, at two years of age, he could not advocate for himself or convey his experiences to anyone else. If law enforcement had been permitted to exercise its authority and responsibility under the criminal justice system, they would have, in fact, become his advocate and Jesse's death would not have occurred. It is paradoxical that in Cheryl's case, she had the ability to communicate, but the failure of the system prevented her from doing so. In Jesse's case, he had no ability to communicate and the failure of the system prevented him from having the proper advocate.

There are countless other instances in which CPS has preempted and prevented police involvement in an effort to cover up its mistakes or prevent interference with its philosophy of "rehabilitation of the perpetrator and preservation of the family unit" or because its staff believes no crime exists.

Similar horror stories have provoked responses for child welfare reform in other states such as Washington (Matthew Crackmore) and New York (Elizabeth Steinberg).

The other side of the coin is law enforcement default and equal culpability. Law enforcement in these circumstances does not have de facto authority.

There has been a fire storm of adverse community reaction over the past two years. The reaction of local communities all over the state has produced an ongoing Texas Senate committee investigation. The Houston media have provided extraordinary visibility through investigative stories, coverage of individual cases, interviews and editorials. The Harris County District Attorney's Office has undertaken some steps with CPS that should prove to be helpful. The Harris County Sheriff's Department has requested additional manpower to help deal with the problem. The Commissioner's Court has held a hearing into the problems at CPS. An internal investigation by the Texas Department of Human Services, the parent group of our CPS, is under way with completion scheduled by August, 1988.

Justice For Children has held the consistent position that the sole authority for intake, prioritization, criminal investigation and referral to other entities in the system be placed in the hands of the police. All entities would be answering to one point; the legitimate requirements of the criminal justice system would be preserved; the legitimate requirements of CPS under the civil law would be preserved; all counterproductive complexity, ambiguity and rudderless activity would be reduced to a minimum; and the incidence of child abuse would decrease.

Nothing else, including the funding and expenditure of $896 million by CPS over the past ten years has produced even a trend in that direction. In fact, the incidence of child abuse and neglect has doubled.

To make this change obviously must involve increasing the child abuse resources, including manpower, at the Houston Police Department and Harris County Sheriff's Department. It may also require increased resources in the Harris County District Attorney's Office. Other costs not currently foreseen may be incurred. It will almost certainly lead to a reexamination of CPS funding -- and there's the rub. CPS funding in large measure is provided by the federal government, and funding for law enforcement is provided by state and local taxes and fees.

The present federal funding process rewards preemption and default. The system is a national failure; child abuse has doubled under it. The best that can be said of this method is that it is seriously inefficient.

We hear from every quarter that to change the system will cost dollars but in many, if not in most instances, we are told that the current process is saving us a lot of money. For example, under the current process we are told:

- We do not require police participation in cases clearly involving a felony.
- We do not require the Harris County District Attorney's participation since CPS decides which cases should be referred to the criminal courts and which ones should not.
- We do not need the court system because CPS is determining the guilt or innocence of the perpetrator.
- We do not need the prison system because the perpetrator goes into counseling instead of into jail.
- We do not need the parole system because CPS decides when the perpetrator has been rehabilitated.

The sad and tragic fact is that no money has been saved, considerable amounts may have been inadvertently misapplied, and the children left at unacceptable risk to the community.

The agency designed to protect abused children has lost sight of its purpose. Its administrators and many of its caseworkers have become more concerned with protecting the system than the children. No one can be satisfied with the current situation that shows $6,256,664,000.00* in federal funding alone since 1981 for child welfare, foster care and adoption activities, while the incidence of child abuse continues to increase at an epidemic pace; a chronic shortage of caseworkers continues to exist according to CPS; nothing is being done to resolve the conflicts between the criminal justice system and CPS; CPS' appetite for preemption continues unabated; and law enforcement officials continue to sweep the problem under the rug.

Any navigator thinking about a course change had better know that the federal contribution must be regarded as a highly favorable current, an indispensable current probably, and to steer a way out of it could mean that we will never get to where we want to go. On the other hand, all of the money in the world would not help without fundamental changes in the authority, policy and procedures of CPS.

This Committee should seriously examine the following in its search for solutions:

(1) The possibility of reallocating federal funds to include grants for child abuse units for increased law enforcement presence, training and responsibilities.

(2) The wisdom of rigid funding orientation and incentives towards "in home" services versus foster care and emergency care alternatives, along with effective procedures to protect the child while in "protective custody."

(3) Removal of CPS from direct criminal intake, prioritization, investigation and referral. Common sense would dictate that police should refer cases to CPS, with any civil investigation subordinate to the police investigation.

(4) Providing for an independent review of the process. This independent review should include the ability to audit files, determine accountability for financial and operational performances and forward its findings to a reporting point independent of the other entities involved in the child abuse system. P.L. 96-272 currently provides for a periodic and independently conducted audit of the CPS programs. This has shown no real benefits thus far.

(5) Clarifying the legislative intent of P.L. 96-272 and related federal statutes to ensure that the principal priority of CPS is the protection of the child, not the preservation of the family unit. "Reasonable efforts" to prevent or eliminate removal of the child from the home does not mean every possible effort. As one author has stated, "no effort is reasonable effort where serious abuse or neglect is suspected."

(6) Providing national education, training and certification standards for CPS caseworkers.

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*Background Material and Data on Programs Within the Jurisdiction of the Committee on Ways and Means, 1988 Ed., Section 11: "Child Welfare, Foster Care and Adoption Assistance Program - Title IV, Parts B and E," Table 1, page 566.

(7) Establishing criteria or an expert model for determining irreducible minimums for when a child must be removed or parental rights terminated.

Our community is prepared to accept some dislocations of the family relationship in preference to death by torture of a child. Justice For Children is part of that community and one of its goals is to be part of the solution, not part of the problem.

From its inception, Justice For Children has made it clear that elimination of CPS is not one of its goals. We believe that a solution acceptable to all reasonable parties is possible when the roots of the problem are completely exposed and the excesses of partisan ideology curbed. We are not opponents of the prevention and rehabilitation of the family unit philosophy as long as the correct and most efficient balance of the needs of all the entities of the children's protective network are in place. Only when this is the case is it possible to maximize the top priority: the protection of the rights and the physical and psychological safety of the child.

In a similar set of circumstances, a social observer once posed the following question: "These are our children. If we will not help them, if we will not care for them, if we will not love them, then who will?" The answer then is the answer now: the community will, for the community must or the community is lost.

Acting Chairman DOWNEY. Thank you. I thank all the panelists for their testimony. I want to ask one question, if you could all briefly respond, regarding the "reasonable efforts" standard, whether or not it provides attorneys, caseworkers, and the judiciary with sufficient guidance in determining what those efforts should be and if it allows them the flexibility to make decisions on a case-by-case basis.

Judge JONES. It certainly allows flexibility. There is no definition of what constitutes reasonable efforts. That is determined on a case-by-case basis. It varies from case to case, place to place.

I think there is a debate among folks I talk with about whether that is good or not good. Some folks think it is desirable to have that ambiguity in the phrase. Others think we need more in the way of definition. I am in the latter camp. I suggested in my written testimony some things I think at minimum it ought to require.

I mentioned in my testimony that I was pleased these committees are meeting jointly because it underscores the interrelationship between child support and the issues we are talking about here today, a substantial percentage of kids in foster care, or at risk of being placed in foster care do not receive support from an absent parent. Economic deprivation resulting in part from nonsupport contributes to their problems. Reasonable efforts should require that the nonsupport issue be addressed.

Mr. HARDIN. As I indirectly indicated in my testimony, one of the problems with reasonable efforts is the fact that it is not clear what services exist or are available. If it were clear to the courts what services exist and are available in the community and if there were State policy, as mandated by Federal law, objectifying the service delivery system, and, further, if information were being provided both to the parties and to the court consistently on what service has been provided, then it would be easier to implement the reasonable efforts determination on a case-by-case basis.

The problem now compounding the lack of a specific definition of reasonable efforts is that there is no meaningful basis to make the determination.

Ms. WEINBERG. I go along with that. Part of what is happening in Illinois is the way our statute is written. If you read it literally, a child must be returned home if the court finds that reasonable efforts have not been made. I know virtually no judge will ever find reasonable efforts have not been made when they still want to ensure that a child is removed. The judges do not know what sort of resources are out there to determine whether or not in fact the agency could have made more efforts.

I am not convinced enough effort has been made to develop the resources needed to prevent removal or return a child home, which is part of why we propose that there should be at least minimal guidelines in terms of what must be available out there across the board.

Acting Chairman DOWNEY. Mr. Burton.

Mr. BURTON. Because the overriding priority of the system is to protect the family as opposed to the child, we believe in many cases that unreasonable efforts are being made to leave the child in a home that you or I, or perhaps an average citizen, would say is a clearly risky environment for that child because of lengthy history of abuse or neglect. We do need some standards, irreducible minimums, an expert model, if you will, that case workers can use so the best among them can pass their experience on to ones who are less experienced and could make better judgments on the basis of these guidelines as to whether a child should be left in the home or returned to the family.

My principal concern is that I believe it is impossible for the individual who is trying to preserve a family at the same time to independently advocate for the needs of the child and for the legitimate needs of law enforcement. I think that is putting this caseworker in a position of terrible conflict of interest: I won't say that in cases of minor neglect that there aren't situations where you can leave the child in the home, preserve the family unit and have a happy outcome.

But we see cases where children who are obviously at risk are left in the environment. There is a problem with the reasonable effort standard.

Acting Chairman DOWNEY. Mr. Miller.

Chairman MILLER. This issue of compliance is one that troubles me a great deal. I am now at the point in these hearings, and other hearings that I have had on the same subject recently in Los Angeles, that it seems to me that there is kind of a grand conspiracy going on here; that you essentially have the courts, the lawyers and the social workers and everybody winking and nodding at one another about compliance.

Because if you require compliance, the system comes to a grinding halt and stops. In fact, services are not really available. They could certainly be created in the community, but that choice has not been made. And the reasonable effort part of this legislation is partly an outgrowth. If you look at the history of this legislation, where one or more judges at some point said, "Wait a minute. Wait a minute. You guys, you are just not complying with what was then the existing law," and sort of saying, "not in my court, you are not going to continue this kind of activity", and the thing did come to a grinding halt. Kids had to be brought home or taken out of institutions. You created a gridlock to which Public Law 96-272 responded. But there was at some point somebody saying, that is it. We are not going along any further with this.

I listened to a judge in Los Angeles last week who testified to me essentially that everybody, including himself, is out of compliance. Everybody knows it. And we are just shuffling the kids around hoping that they don't die in the process, and I mean literally die in the process, because that is the worst thing that can happen to you in terms of public relations. That is when it gets the mayor coming down on you or gets the Congressperson or somebody else coming down on you.

So up until that time, we are just kind of moving kids back and forth through the system. And people are moving kids according to where they think they can pick up a reimbursement rate. It may have nothing to do with what the real problem surrounding that kid is. You can create the means by which to get him into the juvenile justice system if there is money there. You can create the process to get him before the court. Or you can create the process to get him into the mental health system if there is money in the mental health system. If you have a progressive county, you can get him into both systems and get reimbursed.

But the fact is really that this system is now essentially illegal in every jurisdiction in the country. No?

Judge JONES. I don't know if that is true in every jurisdiction. I would certainly agree that that is a problem of significant magnitude across the land, and particularly in the urban areas.

Chairman MILLER. Certainly if we put more definitions into reasonable effort, this system is out of compliance in every jurisdiction.

Judge JONES. I can't disagree that the system is out of compliance. I would take issue that it is out of compliance in every court in the land.

I have an enforcement concern.

Chairman MILLER. Judges who believe their court is not out of compliance can tell us why it is not.

Judge JONES. I won't be one to come forward. I have a different concern——

Chairman MILLER. You have a different level of resources available to you because of circumstances, right?

Judge JONES. We are a community that is relatively wealthy in resources.

Chairman MILLER. There are clearly changes that need to be made in the act. You always worry that if you are the author of the act, you start protecting against all people. But I get a sense that the system has just now been so jammed because of the dramatic increase in reporting and child protective compliances and teachers and people who are required under the law to participate in the reporting of child abuse and neglect and what have you, that there is just no ability to work. I am not saying that people are willingly out of compliance or people take delight in this or any of that. It is just the simple fact that you are now in a system that, whether it was ever resource rich or whether it was ever adequate, is now so resource poor that you cannot deal with these people on a rational basis.

Mr. HARDIN. I don't completely agree. I think there is a paradox in the law that the law is providing money for child welfare agencies to pressure the courts to do things. But it is not providing any money to the courts. So the courts don't have the same built-in incentives to comply and implement the law that child welfare agencies have.

Courts have to allocate scarce resources just like other institutions. And there are competing desires and demands for court time among the criminal docket, the civil docket involving large private litigation, and the juvenile court docket.

Chairman MILLER. I don't disagree with what you are saying. That is just to me another piece of evidence that it may be because of demand, that it is out of compliance. If judges don't have the time and resources—this system came into existence because we were jolted by a study which said it took 6 minutes to do a periodic review. I suggest if I go back and look, I could find a whole host of county courts where 6 minutes might look like a long time.

Mr. HARDIN. There have been improvements in terms of judicial time. The demands have outpaced the improvements.

What I suggest is there could be a more positive Federal role in encouraging the judiciary in a way somewhat analogous to the way agencies have been encouraged to do things. Agencies have made terrific strides. There didn't used to be written case plans 10 years ago or panels which conducted periodic review.

Chairman MILLER. I understand that. I am not here to force you to defend the system, because I think all of those are improvements. All of those in fact are the law. That is what is required. We knew there weren't individualized case plans, attorneys sitting in your room. That is why they are all mandated in the law, and that is why in theory the system allows you, after reviewing all of the evidence, to move the child either way: back home or into the system. It really does. But, maybe there is nothing available, so, for the sake of shelter, we put the child back into a dangerous situation. That is unacceptable.

What I am trying to lay out here is that it seems to me, with the problems in the court, the diminishing supply of foster parents, the complexity of the children, the caseloads, that we have a system that may not be broken, but it is so jammed now it can't work. The best intentioned people cannot make the system work, because of the amount of time required and the overwhelming contacts that must be made, for the system is more complicated than it was 10 years ago. You are dealing with attorneys, dealing with children more than you were before, and it is not as cozy an arrangement.

We now have to recognize what it is we have created and see where we should start to fund it so that it can work better. For instance, in New York they say, "try funding a computer so we can just keep track of kids before you give us surface money." It ranges in different jurisdictions.

But I don't get a sense that it is inherently broken down from what the law requires, I guess. There clearly are improvements that could be made. I think just this panel and the previous panel made a whole series of recommendations that we should absolutely consider for changes. But when I watch people, my local community struggle to find placement, struggle to try to get family counseling as opposed to focusing in on just the child so that maybe you can rehabilitate that home, it is an endless, and, for the most part, unsuccessful quest on behalf of the entire caseload.

There are a lot of people on waiting lists for very good services, but they are on the waiting list. They will be out of the system before their appointment comes up.

Mr. HARDIN. I feel we are at a higher level than where we were. We have a different problem now than we had 8 or 10 years ago. A lot of the kids that were the easy cases have moved out of the system. There is more abuse that we are now aware of and a lot of abuse that is now being dealt with due to improved reporting.

So now the difficult kids that ought to be in the system are in the system. We are having to cope with them, and it is a lot harder and more complicated, and yet it is necessary and worthwhile to do it.

Chairman MILLER. Under the audit process and under section 471, I don't get any sense over the life of this program, which really started in 1980, that HHS used their powers under that to nudge the system into compliance, to use that process. I understand this administration has a different philosophical view about cutting off Federal funds and weighing in and that sort of thing.

But it seems to me from the testimony the committee received that you have to work overtime to flunk the audit process. Yet there are clearly gross inadequacies at various hot spots in different systems in different States. That really has not been monitored in the sense of saying, look, you are out of compliance with this aspect, and how do we move you into compliance with the use of the Federal law?

Again, I think we have heard enough judges to conclude that where you check the box in terms of reasonable effort really has no difference in outcome. If you say no reasonable effort, the audit goes on the same as if he said reasonable effort.

Judge JONES. That is my sense from my local experience.

Chairman MILLER. Reasonable effort is obviously the key turning point here. That is the switching yard in terms of where these kids go on the theory that that is a real, determination. If that determination is not real, then the system doesn't work.

Mr. HARDIN. It is not so much the problem that if one consciously makes a negative determination that HHS won't disallow funding, but rather that the determination is just made by perfunctorily making an "X" mark on a box on a form. So the Federal audit takes place. They see how many forms have the checkmark.

Chairman MILLER. The point is that you have just testified to that. You have just nodded your head, you have just agreed to it. And all the panelists in the previous hearing agreed to it, as did the people in Los Angeles. That is not what the law says. It doesn't say you get to go through a perfunctory motion. It says you must find reasonable effort. The Federal Government failed to require compliance with the law. That is what bothers me. That is when I say there is a conspiracy. Every witness before this hearing suggested that is the case. They have all given rationales for it. If you don't do that, the kid goes back to a more dangerous setting; if you don't do that, there are no services.

Those may be acceptable rationalizations. The fact of the matter is there has not been compliance. It may be because you need additional resources. But that is kind of the linchpin of the system, whether or not that is a real finding, because it is there for the protection of the child.

Judge JONES. I try to make it a real issue and to grapple with whether or not reasonable efforts have been made either to avoid removing a child or to return a child where the child was previously removed. My concern is the same as yours. Even if I make a finding that no reasonable efforts have been made, no adverse consequence flows from that finding, it is meaningless. It is not being enforced, even if the courts do what is expected of them, the consequences intended by the act are not——

Chairman MILLER. Don't necessarily flow from that.

Judge JONES. That is right.

Mr. HARDIN. We found that in many jurisdictions, it is the negative findings that are rare. Agencies respond differently to negative findings. Some agencies are concerned about the loss of matching funds and will respond to negative determinations.

I wanted to say, though, that I don't think there is anything intrinsic in the reasonable efforts requirement that ever compels a child to be left in an unsafe situation. It was clear in the original history of the act. It is clear from the policy announcement put out by the Federal Government back in 1984. That is, reasonable efforts are efforts to keep the child in a family that is safe. And if there are instances out there in the country, I don't doubt that there are, in which agencies are using reasonable efforts as a rationalization in situations where poor judgment is exercised, that is not in any way justified by the law.

Another thing I would mention in terms of prevention——

Chairman MILLER. I am going to be a little bit of a stickler, and then I am going to give time to my colleagues.

If you read the law and the decision to remove the child was a result of judicial determination to the effect of continuation, there would be, contrary to the welfare of that child (assuming that you had complied with 471(a)(15), which is prior to the placement of a child in foster care to prevent the need to remove a child) that other things happened, if those things hadn't happened, you cannot make that determination and look me in the eye and tell me you complied with the law or the congressional intent of what we wanted.

The reason we put the court in the middle of the intersection is because a lot of people were complying with the law, and we had people tell us they didn't know where the hell the kids were, they didn't know the level of care, and nobody was reviewing it. Now what we have done is created a legal fiction and everybody kind of looks like they are in compliance, but the kids are starting to look like they were 10 years ago. We are paying out billions of dollars, and we can't go back and look at our constituents and say, This is the system that is really for the benefit of the child. Because there are too many casualties. It is clearly a better system than a decade ago, much more innovative, but it is being so overwhelmed that it is starting to look more like the system of 10 years ago, just in sheer numbers. But that is my point.

I understand it is vague and all of this. But it also says, before this judge makes that determination, section 15 has got to be complied with. And section 15 is a fiction at this point, for whatever reason, resources or ill-will, or whatever.

Ms. WEINBERG. I think it goes to the argument as to why we need more clarity as to what are reasonable efforts.

Chairman MILLER. You can't comply with a vague one. Of course, we save a lot of money because we cut off all your funds.

Ms. WEINBERG. The fact it is vague leads to not complying. You can remove a child when the child is not safe. How many efforts do you have to put in before you can make that decision that the child will be at risk if he is left in the home? Do you have to be able to put in a 24-hour-a-day homemaker to insure that the child is going to be OK and the father is not going to come back home? Or, are you required to do that for reasonable effort, or the fact that that is considered unrealistic because why, if a mom can't protect her child, then you shouldn't——

Chairman MILLER. I think the point of the question, do we also want to include that, the authority to take the abuser and remove him or her from the home and let the kid go to school in the morning like the normal kid as opposed to going to a juvenile home and having that life disrupted, let pop take the wheels and find his way to work—I think you are right.

Ms. WEINBERG. I think part of the problem, too, is the resources. In Illinois, our caseworkers carry 40, 50, 60, 70 cases.

Chairman MILLER. How many people are you in contact with to service 50 cases? Should you be in contact with them if you are going to service 50 cases? You got a lawyer for the child, right?

Ms. WEINBERG. How many people should the worker be in touch with?

Chairman MILLER. To do that case right.

Ms. WEINBERG. I don't think it is reasonable what is expected of them.

Chairman MILLER. They have to be in touch with the lawyer, the judge, with their lawyer, with the social worker, and, I assume, with the other family members.

Ms. WEINBERG. You have a situation where we have to deal with over 10,000 children, and we only have six judges.

Chairman MILLER. No wonder, listening to this testimony. Anybody want to volunteer? Excuse me.

Mr. Coats.

Mr. COATS. I yield my time, Mr. Chairman, to Mr. Hastert.

Mr. HASTERT. Thank you, Mr. Chairman. Thank you, Mr. Coats. I am amazed. I sit here and listen to testimony and listen to the chairman. The chairman has a lot of good points. But as someone who sponsored the CAP Act, the Child Abuse Protection Act in 1983 in Illinois, I carried that legislation and got it passed. We put together the review teams and tried to do a better job, passed legislation in Illinois that made tougher reporting standards in ECFS in the hotlines, and all those things that went on in that State.

Today, because we have done a good job, our reward is a negative one because we have 1,000 people on that hotline a day. We try to keep the caseworkers at 50 cases per worker. That was our goal. I remember that was our appropriation goal. When you can't add people and you have 1,000 new cases a day on the hotline, you know, there is a disincentive to do a good job.

But the question is, when we started adding more rules—and you ask for more rules, and you ask for more rules and define this, and the people from Virginia say we need more rules—you will have less compliance because you can't meet the expectations when you put those rules down. And, you know, the legislation I have carried in Illinois, nothing was very effective unless you had a carrot with a stick. The carrot was some bucks to make the thing work. The stick was compliance.

When I look at the casework I have had both in my State representative office and my Congress national office today, there are two sides to those bills we passed. I get parents saying "We are being abused as parents because we try to keep a home together" and/or "I try to keep my children together, and my spouse, who now lives someplace else, is reporting me on the hotline every other day because that is a good way to get back."

I mean, so many things are tied into this. And the fact is, a judge in South Carolina or a judge in Chicago or six judges in Chicago, each are individual persons, and they have each different ideas of what is right and what is wrong. And when you are dealing with human nature, it is impossible to computerize human behavior. You can't do it. That is the problem.

And I think we try to take the holistic approach in this nation and say we all slip on A, B, C, D and sub-slot A; you can't do it. I don't know what the answer is. But the more we lay down the rules, if you wanted everything laid out for what your job is, it makes it a lot more difficult, because you can't comply. And then the fact is you are talking about foster care, and we are talking about a dwindling number of foster families. I know, in Illinois, I want to improve the law to cycle those kids out of foster care and get them adopted. Our number of foster families shrunk in half because the families who would take foster kids blame adoptive families, and they were out of the market.

I don't know what the answer is. I wish I did. But it seems to me, and I disagree in a sense, if we lay down the rules and all of a sudden start to enforce the rules with an axe, we are not going to have anything left.

Chairman MILLER. That is why we ended up at reasonable effort. Then when we wrote this law. This was the debate. And in some ways you are torn because I think in many ways the system is so much more sophisticated and there are State statutes mirroring what we have done here. Many States had implemented statutes and all the things that went along at that time. If you look at the system and you see some of the things involved, you kind of believe if you did add more resources, you would have a better system because we kind of know what to do, but in many instances we are not able to purchase the counseling, the services, the things needed by these families.

That is why I say you want to get more prescriptive about what is a reasonable effort. Then you will really be out of compliance and maybe, in the interest of the child, that is not such a bad thing in terms of forcing you to come into compliance. But in terms of reality and how the system responds to that, I don't think that is a better system. I think the judges know reasonable effort when they see it, but they don't have the time, they know the social worker doesn't have the time to comply.

The question is, if you could lower those caseloads, would you come closer to reasonable effort, would you come closer to compliance by that simple fact alone? Obviously some, there is the other panel who talked about 4(b) services money. Would that bring you closer to reasonable effort than trying to prescribe in the Federal statute what is reasonable effort? And that was the debate.

Mr. HASTERT. The debate also goes back to the issue, what do you do? How does the system react? I will tell you how the system reacts in Illinois. A kid is killed in Alton, Illinois or maybe Chicago, and heaven, forbid, Elmhurst. Then you have a half dozen legislators or State senators saying let's fire the director and bring in a new director, let's restructure the system. And the system is so overburdened and in a sense helpless. The better you make it, the more overburdened it becomes. And that is how the system is driven through editorials and newspapers.

Ms. WEINBERG. There is a disincentive in a way in terms of dealing with reasonable efforts because the fact is you don't get support. You do not get attention or media attention when you have a successful return-home case. You get media attention when you return a child home and something awful has happened. That is the only time anybody hears about how this has been functioning. They never hear about the successful cases.

Mr. HASTERT. The problem with the court, I have never been on the system, but they react, too. What is the risk of taking a kid out of a family? A family struggles and might have problems, but they struggle to exist as a family. But you put the kid in a foster system, and he gets bumped around, or Independent Living, and the kid becomes abused by the system.

You don't hear about that, either.

Mr. HARDIN. With regard to reasonable effort, I would add that some things that are clear. One is that there are instances in which no efforts to prevent placement can be seen. You have the situation where the agency comes into the situation and it is so immediately dangerous that you have to pull the child right now.

In that situation, no efforts are reasonable. You can also make a finding that the agency has not made reasonable efforts and remove the child for the child's safety. The agency did not do enough, and there is a fiscal sanction against the agency. Unfortunately, in passing and implementing State legislation, some States have not followed that, and have compelled the judge not to remove if there is a negative finding of reasonable efforts.

Mr. HASTERT. Chicago is different from Dade County or Lake County. But every jurisdiction is different, and the reactions of the courts and the agencies and how much funding they have differ.

It is hard enough to get uniformity in a State or county, let alone nationwide.

Mr. HARDIN. But there are some basic minimums. Many States have clarified the point no reasonable efforts doesn't prevent removal. Also, in the State of California, and I realize the problems with it, there are a set of services legislatively mandated in California. We went out there to talk to people.

We found the services were not available as they should be, but that the set of services were known by the judges, known by the workers, and exist around the State even if not in sufficient numbers.

I agree in general that we have to be very cautious in our prescriptiveness, because we can be counterproductive in laying on so many details that the essence of the law can exceed the capacity to comply. We can then become counterproductive.

Mr. BURTON. The other side of the story on "not hearing about the good cases, where something was done to affect the family for the better," is that there are many cases that, because they do not result in child death—the small minority of child abuse and serious neglect cases—never come to the attention of the public.

As a result of the Texas Senate hearings, it has also been shown that many cases do not come to the attention of the juvenile court judge, so he can say it is reasonable or unreasonable to leave the child in the home.

Mr. HASTERT. The hotline will show it.

Chairman **Miller**. Mrs. Johnson.

Mrs. **Johnson**. I am as frustrated as some of you. We can put in more judges, more lawyers, more social workers and foster parents, and we are still going to have inappropriate placements, unnecessary placements, lots of paperwork. I have agencies that are putting in the same number of hours for paperwork as they are for nursing home visits.

The worst of it is that a lot of your paperwork takes a lot of real time. A lot of social work is telephone contact, because there is not time to go out. We have a system that is dealing primarily with disasters, the ones that make it to the judges or to crisis levels.

What are those small modest changes we can make in the legal structure that we might be able to make? I think it is really time that we try not to fund everything equally. In reality we do not. We have a wonderful program in this Nation that provides care for all children under poverty income. But only two or three States have implemented it.

We pay half, still only two or three States have this program. We have to be honest with ourselves here. I think this is really an issue of empowering parents and getting them to participate in programs that will help change the dynamics in that family, and intervening early. If we did nothing more but emphasize and develop the requirement for early intervention then we might be able to help some families. Let it be a coordinated requirement, not just oriented at the disturbed children, but at preschool evaluation and some mechanism that looks at the child, gives the child a health evaluation and basic services and establishes the early intervention.

I have a school system that developed a terrific intervention program, a team effort where they would identify even children who were acting peculiarly would be identified and at the cost of one social worker, radically reduce the indices.

We all know what the answer is. Unless we are tough on ourselves in this reauthorization process, you know what will happen. I really believe strongly that we have got to do something about the early intervention, identification and treatment resources. Those resources have to be very tightly focused on families trying to prevent outplacement, particularly outplacement of the child, and outplacement of a single parent where two parents may be preferable.

If we don't create a stronger system for all members of families, we will not be able to help the child. It is also true that the courts and lawyers could make giant steps toward reforming their own process. We have a lot of options that we do not necessarily need to make our first priority, but I think we do have to spell out and accomplish this package of early intervention and lower level of treatment resources.

We may need to do nothing else but to require a person attend AA and put the resources in place and have somebody knock on that door and "get that guy." I had a church group come to visit me last week, a minister from my rural counties.

One of the women from his congregation identified four desperately poor families in their communities and not only helped them to get to the resources, but also helped them manage money, manage their family affairs, manage the relationship, the transportation issues, the work issues.

Over a period of time, they have buddied these families onto a secure, better way of life. So far, the child welfare system, unlike the church communities, has not taken a holistic approach. This church community is showing us the way.

Maybe we need to have the people in Washington who have this kind of experience and require that communities have a holistic component to work with us.

We have to look at certain key changes in the law. We need a stronger arm on parents. I would appreciate any concrete help you could give us in the months ahead, because I think we have a chance to do some very important work here.

Ms. WEINBERG. I want to add to that, also, in terms of reallocation of some resources. The number of times I have been in court and walked away feeling if only the agency could provide to the parent the same resources they will provide to the foster family that the child is going to. It is not that we provide so much to foster parents, but we provide more than we do to the real parent.

Instead, we remove all her kids and place them in foster homes. And for the cost of what we are spending on placing four kids into four different foster homes—if some of that money were to go back to that mother to help her cope.

I would not want to deal with the four, five, or six kids I see coming into court. If we could reallocate some of those funds, I think it might be helpful.

Mrs. JOHNSON. We had tests that showed that well-trained parents' aides could help eliminate placement and help the whole family.

Mr. HARDIN. One challenge in providing early intervention programs to avoid foster placement is the difficulty of correctly targeting the services and funds. Oftentimes, efforts to establish early intervention programs have provided helpful and useful services but not to the children who would have been abused. There may be a respite day care. That is nice, but it should be targeted to the families that need day care in connection with a problem that might bring the child back into the child welfare system.

Whenever you set criteria limiting accessibility to the program, there will be a degree of arbitrariness to it. There are no instruments that have been designed that can reliably predict future abuse. I think it is possible, however, to set some criteria and guidelines to target those programs more narrowly to the desired population.

Mrs. JOHNSON. Yes, but we don't want to require that the school social worker refer to the State agencies with a case that is not really as serious and make this the requirement to gain eligibility therefore eligibility gained. You want to target, but you want somebody at the less formal contact level to say this is what they want to do.

We had testimony from review boards here. They have been very effective in my town. There could be a community system whereby children identified for evaluation earlier on, and they were then qualified by that community team for these more significant services, and the family as a whole could qualify, and intervention at a level before the situation reached crisis proportions would be possible—with great potential for success.

Judge **Jones**. I think it has to be said, to respond to your comments, that as long as we continue to produce inadequate parents in this culture, that the child care services agency will be overwhelmed with demands for services. You talk about early intervention. Ultimately, we have to go back to the education system, to poverty and the housing crisis, and to substance abuse and other situations that create the parents that become abusive or neglectful.

Mrs. **Johnson**. I agree with that.

Thank you, Mr. Chairman.

Judge **Jones**. I am very depressed now.

Chairman **Miller**. Our job is not to brighten your day.

Acting Chairman **Downey**. As you have not brightened ours.

Seriously, we should do more, and hopefully we will be doing more. That doesn't prevent the States or localities from doing more.

Mr. Hardin, you mentioned ways that we could help the State judiciary to do a better job. It came to my mind that maybe the States should do a better job. If you have capable, well-motivated people at the local level, they are invaluable and far more important to the process, I suspect, than anything. I think we can provide more incentives, but we are going to ask for the States to do more, too.

Mr. **Hardin**. I think that is right, that one of the things the Federal Government can help stimulate is for the States to take a careful look at their own situations. I think some of the problems that go on in States is due to there not being a wide enough awareness.

Acting Chairman **Downey**. If you had a Governor of a State who made foster care one of his or her priorities, like in the State of Maryland, you are just going to have these children treated differently. They are going to be treated better, no matter what we do.

Thank you very much.

The joint committees would like to hear from the next panel: John M. Pierce, the executive director of the Pennsylvania Council of Children's Services; James K. Haveman, Jr., executive director, Bethany Christian Services, Grand Rapids, Mich.; Megan McLaughlin, executive vice president, Federation of Protestant Welfare Agencies, New York City; and Joe Kroll, executive director, North American Council on Adoptable Children, St. Paul, Minn.

Mr. Pierce, if you would begin. But first, may I request that you summarize your statement? That would be appreciated.

STATEMENT OF JOHN M. PIERCE, EXECUTIVE DIRECTOR, PENNSYLVANIA COUNCIL OF CHILDREN'S SERVICES

Mr. **Pierce**. I will try to do that.

Acting Chairman **Downey**. Chairman Miller points out to me that we have an arms control debate in which I must participate in a few minutes.

Mr. **Pierce**. Let me tell you I represent the Pennsylvania Council of Children's Services, which is a statewide membership organization composed of 106 nonprofit agencies which offer a full spectrum of children's services and programs.

Member agencies provide services which come within the traditional funding categories of education, child welfare, mental health, mental retardation, delinquency, drug and alcohol, and youth employment.

Within these traditional categories of service, member agencies provide a full spectrum of service in a range of locations from in-home service to secure residential care.

On any given day, services provided reach approximately 17,000 children and their families. About 60 percent of these children receive services while they are living at home.

Forty percent provide services outside of their own home.

The Pennsylvania system is county administered, State supervised. The purchase a significant portion of that service from a private nonprofit sector. The organization that I represent provides about 80 percent of that purchased service. They cover pretty much the field.

Based on our experience in Pennsylvania, we do not believe that Public Law 96-272 has been successful.

I want to give you some brief figures. I understand that figures can be used a number of different ways. There are a number of reasons for this.

For example, between 1980 and 1986, subsidized adoptions dropped from a high of 1,114 to 500. Out-of-home placements increased in that period of time by 6 percent, and residential placements increased 29 percent.

The real figure that is bothering me and is one that has been raised before is that the number of reabuse cases, the reabuse cases have gone from one in 20 in 1980 to about 1 in 6 this past year—phenomenal increase in the number of kids who have been reabused. In absolute figures, we are talking about 289 children in 1980 reabused to this past year, 1,115 children reabused.

The same time that we look at those, the length of time in care, and this is 40 percent of the children if you look at this over this period of time, 40 percent of the children in out-of-home placement have been there more than 2 years. This has been a pretty constant figure. If you use these as measures, I am not sure that Public Law 96-272 has really done that much.

A couple of things I would like to mention in terms of explaining this. In Pennsylvania in the child welfare system, there is approximately $325 million available for service. That is from all three levels of the government: county, State and Federal.

The Federal part makes up, and this is all Federal money title XX IV-B, IV-A, about $70 million. That is a significant amount of money, but it is not a controlling issue in terms of the way services are provided.

The other point about this, and it has been raised numerous times before today, is we are underfunded $40 to $50 million. And you cannot start making changes or continue making changes in your system without some breathing room. We just don't have it. I think that is true of all the States, from what I have been able to hear.

I want to talk about the mix of service in the private nonprofit sector. I know that we are not unique, but we are one of the few States that has made great use of the private sector.

We have moved from a system in 1975, because that is when we started making our changes, that was pretty much dominated by two types of service, traditional faster family care and institution care to a system that is pretty broad based, has a good mix of services in it and has moved from focusing primarily on dealing with the living environment to dealing with treatment issues. So we have moved from a system based primarily on care to one based on services.

There were questions asked about foster family care. In the private sector in Pennsylvania, there is little traditional foster family care done. It is almost all done in the public sector.

In the private sector, we do what has been talked about as treatment foster care, specialized foster care, whatever term you use. Our payments to foster families are around $25 a day.

I was shocked when I heard about what counties were paying on a monthly basis. In 1 week we are paying almost what some of the States are paying to foster families for a whole month. Our foster families are trained and have extensive support services provided for them. From a county purchase perspective and what they pay us, it is in the neighborhood of $70. That provides us with a lot of services, training, et cetera. What we did is we took the institutional or residential services and care and moved them into a family setting. I think that is a very important thing to understand in this process.

A couple of other points in terms of children. I can repeat what has been said to you earlier. Children have changed. It looks like they have changed. They have not changed that much. We have always dealt with difficult kids. What has changed is that we don't serve children now who don't need to be in care as much as we used to. We have gotten rid of the easy kids, the cream puffs. We now have a concentrated group of very difficult children to deal with.

The other thing that we have done, and this is partly done at the State level, but partly due to Federal moneys, is that we have removed a number of children from the child welfare system with specialized money—runaway money, teen pregnancy money, special education money, and early intervention money. So in fact what it looks like is a very difficult group of kids, and it is, but it is not because children have changed that much. It is just concentrated differently.

I was asked to testify on a very short time schedule, so I don't have extensive points. But I do want to raise about five points with you.

One of those things is the way kids have changed. We had at one time a fairly heterogeneous population covering all those types of children, at least within Pennsylvania. Our system now looks like there are three groups of children: children zero to six, children who are abused and are at risk of injury from the adult custodian. The second group of children is a group of seven to 12; some of which are abused children, but most of these children display emotional disturbances and the parents can't cope with them on their own. The third group is a population of children 13 to 18 who display emotional and behavioral disturbances, and are viewed by the community as a threat to the community or a threat to themselves—the delinquency and the mental health parts.

Let me make a couple more comments. They are not recommendations; they are just observations. One of these things is I think that the population or the characteristics of the population of children who need services has been misperceived in that many lot of the children we deal with have very chronic problems. We are not talking about return home and things like that for a number of these children.

The second one is that Public Law 96–272 created or perpetuated a child welfare system. What we need is a children's services system. We have talked about mental health, mental retardation, drug and alcohol, and we need to get them together and talk about children's services as opposed to the child welfare system. Needy children are not necessarily poor, and there is a big difference between care and services.

The third one is, there is a tremendous conflict between the protection of the child and family reunification. With scarce resources, those become more and more in conflict. We have seen that with a number of reabuse cases, for example.

Another point is that maintaining children in their own home is not easy. If the resources exist at all, they are very difficult for families to access. What we do in the child welfare system in order to deal with that, if you have the dollars to do it, is we go out and create our own resources because they don't exist in other parts of the community.

The conclusion is it is a lot easier to put those resources together if you control all aspects of the program and that leads you back into out-of-home placement, and that is the tendency of the program, unless there are some barriers that prevent that from occurring. In effect, at least in Pennsylvania, Federal money has been placement maintenance money.

The last point concerns categorical funding. Public Law 96–272 is categorical funding, but so is mental health and runaway money. Categorical funding prevents flexibility in the use of money. It perpetuates labeling and fosters segregation of a homogeneous population. Two good examples are special ed and mental health.

I hope I haven't skipped over too much. But thank you.

Acting Chairman DOWNEY. Thank you, Mr. Pierce.

[The statement of Mr. Pierce follows:]

STATEMENT OF JOHN M. PIERCE, ON BEHALF OF PENNSYLVANIA COUNCIL OF CHILDREN'S SERVICES

The Pennsylvania Council of Children's Services is a statewide membership organization composed of 106 nonprofit agencies which offer a full spectrum of children's services and programs. Member agencies provide services which come within the traditional funding categories of education, child welfare, mental health, mental retardation, delinquency, drug and alcohol, and youth employment. Within these traditional categories of service, member agencies provide a full spectrum of services in a range of locations from in-home services to secure residential care. On any given day services provided reach approximately 17,000 children and their families. About 60% of these children receive services while they are living at home. The other 40% receive services while living in out-of-home placements such as foster family, group home, supervised independent living, small group living, and residential treatment.

Pennsylvania's child welfare system is county administered and state supervised. Most out-of-home services and a significant portion of in-home services are provided through a purchase of service system with the private nonprofit sector. With the exception of one large agency which serves primarily delinquents, private for profit agencies account for less than 1% of purchased children and youth services in Pennsylvania. The Council membership accounts for approximately 80% of all the services purchased by the county children and youth agencies.

My testimony will focus on the overview of programs which fall within the scope of P.L. 96-272. Because of short notice, I was not able to develop exhaustive written material on all the statements I will be making today.

Based on our experience in Pennsylvania, P.L. 96-272 has not been successful in bringing about major changes in the behavior of the child welfare system. For example, using the period since 1980 to the present, finalized adoptions have dropped from a high of 1114 in 1982 to a low of 500 in 1986. Out-of-home placements were 4% higher in 1986 than 1980 and residential placements were 29% higher in 1986 than in 1980. At the same time that adoptions were decreasing and out-of-home placements were increasing, the statistics for child abuse were unsettling. Substantiated cases of abuse increased by 53% between 1980 and 1987. But more frightening than the increase in substantiated cases of abuse, is the fact that reabuse cases went from 5.5% or approximately 1 in 20 of substantiated cases to 15.5% or 1 in 6 of substantiated cases between 1981 and 1987. Additionally, the number of children in out-of-home placement two or more years is approximately 40%. This figure is slightly lower than in 1980 but has been on the increase since 1984.

There are a number of factors which may explain these figures.

Funding

The children and youth system is funded by three levels of government in Pennsylvania. Out of approximately $325,000,000, the federal portion is $74,000,000 or 23%. This amount of money, while significant, is not the controlling factor in establishing policy. Further, the projection for fiscal 1987-88 is that the system is underfunded by $40-50 million. For fiscal incentives to work, there must be some breathing room. Pennsylvania's children and youth system is in somewhat of a crisis situation.

Service Mix

At the present time, we have, relatively speaking, a good set of services available in the child welfare system. The private sector has created a full spectrum of services and a series of living arrangements through which these services can be accessed. The change in our delivery system started in the late 1970's. In 1980, we had created a spectrum of living arrangements through which services were accessed. The primary focus was on a substitute living environment and secondarily on treatment. That focus has now changed to being primarily on treatment and secondarily on a substitute living environment. For example, generic foster family care has been replaced by specialized or treatment foster family services. In fact, with this emphasis, the living location is probably benign.

The second change in our mix of services is that the range of services provided by any one agency is multi-funded. A typical combination is child welfare, mental health and education money. This packaging of services with the multiple funding has resulted, in large part, from the change in focus to treatment and away from a substitute living environment. Consistent with a treatment focus, the agency providing the service must deal with all aspects of the child's life. This is true even if the referring agency does not have a broad mandate.

The cost to a private agency of integrating services to meet the total needs of the children its serves when the public sector is fragmented along categorical lines approximates 10% of total operating costs. This is a fairly high price to pay for integration. The alternative is less acceptable -- services which do not meet the child's needs.

Characteristics of Children

Any time you talk to someone involved in the direct provision of children's services, you will hear it stated that children are more difficult now than they were eight or ten years ago. This is partially true and partially untrue. In 1975-80, the child welfare system did deal with very difficult children. It also dealt with children who were "cream puffs". What has happened to the mix of children is that the "easy kids" no longer receive services. First, it is too expensive and second, other categorical funding has been developed for specialized groups of children (i.e., runaways, teen pregnancy, etc.).

In response to scarce resources and the present treatment philosophy, the system has responded by developing categorical funding with its requisite labeling. Along with categorical funding and labeling has been the development of programs with homogeneous populations. From a programmatic perspective this becomes a self-fulfilling prophecy. Two good examples are special education and children's mental health.

The child welfare system in the past ten years has gone from a fairly broad spectrum or heterogeneous grouping of children to a system which now serves three fairly distinct populations: 1) ages 0-6, abused and severely neglected children who are at risk of injury from adult custodians; 2) ages 7-12, some abuse, but most children display emotional and behavioral disturbances and parents cannot cope on their own; and, 3) ages 13-18, children and youth who display emotional and behavioral disturbances and are viewed as threats to the community.

With this as a background, the following statements which reflect what are perceived as barriers to an effective children's policy are being made. Follow up written comments will develop these statements in depth.

1. There is a misperception of the characteristics of the population of children who need services. The problems presented by a significant portion of the population are chronic.

2. P.L. 96-272 created or perpetuated a child welfare system. What is really needed is a children's services system. Needy children are not necessarily poor. There is a difference between care and services. Manipulation of the living environment alone is not sufficient.

3. There is an apparent conflict between the policies relating to protection of children (child abuse) and family reunification.

4. The resources necessary for maintaining children in their own families are not easily accessible, if available at all, in the community. It is easier to create these resources in a controlled environment (out-of-home placement) than it is to create them unprotected in the community. P.L. 96-272 thus becomes deficit placement maintenance money which perpetuates out-of-home placements.

5. Categorical funding prevents flexible use of money, perpetuates labeling and fosters the segregation of homogeneous populations.

I want to thank you for the opportunity to appear before the Committee and offer comments concerning the effectiveness of P.L. 96-272.

Acting Chairman DOWNEY. Mr. Haveman.

STATEMENT OF JAMES K. HAVEMAN, JR., EXECUTIVE DIRECTOR, BETHANY CHRISTIAN SERVICES, GRAND RAPIDS, MICH.

Mr. HAVEMAN. Thank you.

I would like to share with you observations of a State and county who have attempted to work closely together and funders who have attempted to work closely with private agencies. I think we have attempted to do that in Western Michigan. What follows is a summary of my written comments.

I am the director of the Bethany Christian Services with headquarters in Grand Rapids, MI, a metropolitan area with a population of about 500,000. Bethany has 52 offices throughout the United States in over 32 States. In western Michigan, we have a program of about $5 million which provides child and family services. It has about 15 different components to it and about five different offices in Michigan, nine of which are funded through contracts with State or county governments.

Usually the children we receive come to us through the funnel of either community mental health or the local department of social services in cooperation with the local juvenile course.

We also cooperatively have run a subsidiary called Family Impact, which is done jointly with a local psychiatric hospital.

Our budget is $12 million. A third of it comes from State and county contracts, one-third from adoption revenue, and one-third from contributions.

We are the largest adoption agency in the United States. We placed almost 1,100 children in 1987. Our foster care residential and in-home programs in western Michigan have 269 children in care, over 40 percent of those are teen-agers, which is probably an increase of 100 percent or more over the past few years.

We have 254 foster homes. I have attached case scenarios in my written testimony. We have had no difficulty in finding foster homes. We aggressively recruit them. We have extensive training and include the foster parents as an active part of the treatment team. We feel we adequately reimburse them for what we do for them. We have seen profiles for many of these children.

In 1980, 50 out of the 100 children in Kent County had evidence of sexual abuse. In 1986, 50 percent of those were perpetrated by a biological father and 50 percent by a stepfather or other person known by the family. We have seen an increase in physical abuse, a significant increase in the severity of the disturbed children with multiproblem families, more children being self-destructive, more depressed children, more assaultive children, and children have had multiple placements.

Eighty percent of the cases we have received we have documented drug or alcohol abuse problems. Some of the themes and biases I think that we have at Bethany and I have is we believe children are best nurtured in their family, assessment in the direction of services should often be made independent on how the organization or funds available are set to meet the needs of those children. We think we should be involved in preventing and solving the problems.

We feel that too often we force families into competitive bureaucracies and services that are fragmented. We feel that purchase of services should be a mandated first option from funders.

All too often we label children and refer to settings to hopefully meet the reimbursement possibilities that might be available through medicaid and private insurances. I felt as the director of community mental health that we too often force children into where the funding is, and we have to take a look at how we are using medicaid waivers, but also we have to move children quicker out of psychiatric facilities, and if we could shift those dollars to foster care and residential services, we could do amazing things to cut our costs, and use it more effectively. We have to pool funding into more noncategorical areas at the Federal level. We must focus a greater amount of resources towards in-home care.

In Michigan, we are part of the Michigan Federation of Private and Child and Family Agencies. Seventy-one percent of the services in Michigan are provided by 52 private agencies for residential services, 61 percent of the adoption services and 52 percent of the foster care services.

I am a strong believer in the private sector's ability to deliver services. I think we can be competitive. We write proposals that are responsive. We keep our costs down. Bethany supplements our State contracts to the tune of $800,000 a year. We can provide ownership to these programs. We can change directions fast. We can use a leverage of community dollars, whether it be United Way, foundations, individuals or business.

We have a large number of volunteers that work with us. We are one step immune from the political process. We can be strong advocates.

I believe there is a strong role for Federal and State offices to set priorities to evaluate and assess programs to provide oversight and establish standards.

I want to give examples of service, examples under our foster care program. We meet our objectives annually. Fifty percent of the children are returned within 6 months. The remaining 50 percent are returned within 6 months. Of those, they are all returned within 6 months. Children move through the cycle in 18-month segments from beginning to end.

Our in-home programs have been successful. At Bethany, 80 percent of these families are intact. Our family reunification projects have a return rate of 56 percent of the children to successful family units, compared to a control group of 35 percent.

More interesting is a program we managed called Family Impact, which we operate with Pine Rest Christian Hospital. In the first 5 months we have seen 226 individuals. Thirty-three percent were on Medicaid, 17 percent private, 50 percent had no coverage. Two were admitted to out-of-home placement. The profile of these children were chronic runaways, did not obey the rules, substance abuse problems, violent behavior. The cost on the average case load was 15; the cost had been $454 per family on the average per month. We have been able to keep these children out of home placement. The sole purpose of this program is to prevent out-of-home placement.

We are involved with the State of Michigan in the permanent ward program; it places children for adoption. Michigan placed 976 children over a 1-year period, 49 percent placed by private agencies. We are facing an interesting challenge, especially with black children and finding black families for the placement of these children.

Right now at Bethany, 31 percent of our domestic adoptions are black or biracial children. That will increase this year to 35 percent. We need help either at the Federal or the State level to not only assist us in pregnancy counseling of the black teenagers coming in for counseling, but also in helping us in the recruitment and placement of these children.

We have to expand the Federal definition to include these children for adoptive placement. We have a nationwide hotline. We are getting four calls a day from black teenage women who want to consider adoption as an alternative that were referred to us by agencies who refuse to provide treatment. Please see my written testimony for a greater number of recommendations.

I want to highlight examples of future direction. We have to have a preference for purchase of service. We must reimburse at current cost. We must have reimbursements to assure adoption of all children. We have to put more pressure on insurance companies to have more adequate reimbursement other than the traditional long-term placement. We have to limit the number of psychiatric beds. We have to shift funds to high-risk groups, have to have more postplacement services.

We have to centralize assessment centers. We have to merge together the child welfare and the mental health children's services, to do away with the dissecting of children going on at the local level so we can pool these dollars at the local level to best meet the needs of the kids rather than sending them in a dissecting direction.

We would like to see more match for adoption subsidy and the placement of children at risk. We suggest shifting in the direction of title XX dollars to be more in-home rather than more long-term.

We want to strongly encourage private agencies to be more involved in the rural area rather than centering their energies into the urban area.

Thank you for your time and interest.

Acting Chairman DOWNEY. Thank you.

[The statement of Mr. Haveman follows:]

Statement of
James K. Haveman, Jr., Executive Director
# of Bethany Christian Services
for meeting of
Subcommittee on Public Assistance and Unemployment Compensation
# of the Committee on Ways and Means
Select Committee on Children, Youth and Families

April 28, 1988

Representative Downey and Representative Miller, I would like to thank you for giving me the kind opportunity to speak to you regarding child welfare, nonprofit agencies and suggested changes in the Adoption Assistance and Child Welfare Act of 1980.

Bethany Christian Services is a family and child welfare agency with 54 locations throughout the United States. (See Appendix A for locations). Our corporate offices are located in Grand Rapids, Michigan.

Bethany Christian Services has a 1988 annual budget of $12,000,000. One-third of our budget comes from contracts with county and state governments, one-third from contributions from our constituents, and one-third from adoption revenue. Outside of Michigan, our offices are primarily involved in infant foster care, pregnancy counseling and adoption. We have three group homes for women with unplanned pregnancies located in the West, Midwest and East coast of the United States. Bethany is the largest adoption agency in the United States, and in 1987, we placed 1053 children for adoption. Bethany has been in existence since 1942 and was a founding member of the Michigan Federation of Private Child and Family Agencies and the National Committee for Adoption.

Western Michigan

Pivotal to Bethany's services is it's broader services that are available in Western Michigan. On our 13 acre campus in Grand Rapids and in three other locations in Michigan, we offer many different types of services, much of which are purchased by the public sector. Grand Rapids is a metropolitan area of 500,000 with over 130,000 persons under the age of 18. Western Michigan has a long history of private/public cooperation that includes funding sources such as the Department of Social Services, Community Mental Health, Health Department, United

Way and Juvenile Court.

Services that we offer in Western Michigan include (Appendix B offers a more detailed summary of services):

- state contract adoption program*
- domestic private adoption
- international adoption
- foster care -- children age 0 to 18*
- family reunification project*
- refugee foster care and an Amerasian program (Indochinese)*
- residential services*
- day care
- family counseling
- in-home services*
- pregnancy counseling
- treatment foster care program*
- volunteer program
- run-away programs*
- homeless youth programs*

(*contracted services)

Bethany also has a 24-hour toll free number (1-800-BETHANY) which is available nationwide as a crisis pregnancy hotline. In 1987, 15,685 calls were received and the first quarter in 1988 has shown a 15% increase in calls.

Bethany also jointly administers a subsidiary corporation, Family Impact, with Pine Rest Christian Hospital, a large multi-service psychiatric hospital located in Grand Rapids. Family Impact only works with families who are at risk for a out-of-home placement, and it's total focus is on in-home care and if necessary short-term alternative placement.

Most of our annual contracts are written on a per diem reimbursement basis. In Western Michigan, we have 269 children and young people in our foster care program, residential and in-home programs. We have consistently met the objectives from the Michigan and Kent County Department of Social Services in the return rate of children to home. Over 40% of the children in care are teenagers, which is a definite change in the trend from 8 years ago. We work with 254 Bethany foster families in Western Michigan, and through our contract we receive a $12.32 administrative rate for each child per day, and the foster parents receive $13.00.

Our Refugee Program has an administrative per diem of $8.82 a day, and we provide services to 71 Indo-Chinese children and youth who are referred to us through cooperative relationships with various national agencies. We have been highly rated as a provider by the federal government, and have consistently exceeded our objectives.

Our Residential Program has 32 beds, and many of the young men are in our care as an alternative to inpatient psychiatric services or a locked residential unit. Our per diem rate is $87.58 per day.

Of the total number of children and young people in our interim care at this time, 30% are black, which is an increase of 10% over two years ago.

Our state adoption contract has placed over 100 older children (whose parental rights have terminated) into permanent adoptive placements. Michigan has been a leader in state funds available for adoption support and adoption subsidy, and we are reimbursed by actual cost or average cost of adoptions for a year. The state now has a cap on allowable funds for this program on a per case basis.

Change in Profiles

We have seen a change in the profiles of children and young people who have come into care over the last 5-10 years. Some of these changes include:

- A significant increase in sexual abuse. In 1980, 50 of the 1400 Kent County DSS referrals to private agencies had a component of sexual abuse. In 1986, it was 300 cases out of the 1400. 50% of the sexual abuse was perpetrated by the biological father and 50% by the stepfather or by another person often known by the family.
- We've seen an increase in physical abuse.
- We've seen an increase in more severely disturbed children and families with increased interrelationship between mental illness, violence, and intensive family breakdown.
- 80% of the cases that we now receive have a documented drug or alcohol abuse problem by parents and/or by the young person coming into care.

One wonders if in dealing with the overwhelming number of drug and alcohol and sexual abuse cases, the child welfare system hasn't had the time to deal with the children who 8 years ago were coming into care primarily out of emotional neglect.

We've been a strong supporter of diversionary programs and in-home care, and have been a leader in providing these services. This has certainly changed our focus and the profile of the children and young people coming into foster care or residential treatment. The children, young people and families are more disturbed and demand more intense and creative intervention.

Adaptations
Some of the reasons for our success as we have adapted to the changes over the past few years include:

- focus on family reunification and family systems
- case loads which enable and prioritize treatment of the child and family
- an increase in the variety of treatment approaches that our agency and community has available
- increased cooperation between funders and community agencies
- quality staff and increased training and careful selection of foster homes
- recognizing that a family deserves the right to treatment but also dignity to become self-supporting

The Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) was important for it set a foundation and direction. It's timely that we take a look at some proposed changes for the future. Children have the right to develop to their full potential in a safe family and physical environment. However, as we look around us, I think we all share the feeling that something is desperately wrong with what we're doing with and to our children. I congratulate the federal staff and committees for their willingness to take the time to listen and assess our future direction. The confusing message about children continues to be sent out, and I recently was struck by an ad in a magazine that has two women talking to each other with the quote in bold letters: "He's crazy about my kids and drinks Johnny Walker Red."

I'm encouraged that in many of the 30 states in which we have offices, there is a renewed commitment and interest from the public and private sector to explore new incentives which will lead to increased cooperation.

Themes
Some of the themes and biases that I use in assessing child welfare today are as follows:

- children are best nurtured in their families
- services must be focused on what is best for the person and family who needs the services
- assessments and direction of services should often be made independent of how the organization is best set to meet that need
- we must be preventing difficulties as well as remediating the situation
- behavior is often caused and learned, and I'm confident and convinced that we have the tools, technology and know-how to meet the challenge of the 1990's
- we must focus our services on the family unit
- current systems are often fragmented and unfortunately are confusing for those who wish to utilize the services
- we force families into complex and sometimes competitive bureaucracies in order to get help for their children
- a system of child and family services must depend on a noncompetitive, non-turf related relationship between federal, state and community base providers whether it be public or private. Purchase of service should be a mandated first option.
- we have labeled too many children and families out of convenience to insurance companies and medicaid to assure adequate reimbursement.
- categorized funding for child welfare at the federal level must be altered and available funds must be better pooled and allocated to states who have a written state action plan for the delivery of child welfare services.

Nonprofit Agencies

I am a strong believer in the cooperation between the public sector as funders and the private agencies as providing the need services. I've been the executive director of two nonprofit agencies in Western Michigan as well as the executive director of the Kent County Community Mental health program. In that program, 98% of the services were purchased from over 20 providers in the Kent County area. Today many nonprofits are at a pivotal point in their development. Many nonprofits are need driven rather that market driven, and some weigh mission more highly than funding. However, given the increased competition and the increased interest in the for-profit sector in services which have been traditionally offered by nonprofits, nonprofit agencies need to realign and readjust in order to survive. Nonprofits are going to be forced to compete with well funded private sectored vendors, and are going to have to find ways to raise equity capital for growth or expansion. Maybe it's time we change the way nonprofits do needs analysis, or how we appropriate the funds. We might need to explore ways to more adequately compensate employees through various forms of equity participation and encourage more private funds for management, research and development.

In Michigan, Bethany is one of the 82 members of the Michigan Federation of Private Child & Family Agencies. In Michigan at this time, 71% of residential care purchased by the Department of Social Services is provided by member agencies, 61% of the adoption services are provided by member agencies, and 52% of all foster care services are provided by member agencies. If other states would move in a similar direction (to have an increased cooperative effort among the nonprofit agencies to deal cooperatively and collectively with state government) I believe that great strides could be made in the delivery of services by the nonprofit sector.

Advantages of Contracting With Nonprofits

Some of the advantages of dealing with the private nonprofit agencies are as follows:

- increases competition which assures better proposals with the agencies clearly understanding that if they produce they can continue to contract, and if not, the contract will be shifted.
- innovative and creative proposals can be designed to respond to a perceived community need.
- cost are generally kept down. Our experience has been that only 88% of true agency cost is reimbursed through a contract and the expectation is that other community funds will be used to supplement state or county dollars.
- increased local ownership of the program as well as interest.
- an ability to more quickly alter or change directions and a greater tendency not to less institutionalize the program.
- a greater leverage of state/federal dollars with United Way funds, foundations, constituent dollars and other revenue acting as a multiplier affect. In Grand Rapids, we've had many experiences with foundations expanding an existing program. This year in Western Michigan, Bethany will raise $850,000 in part to supplement and to expand contract programs. Recently we had a capital funds campaign and raised $3.5 million to construct additional facilities. This story could be repeated throughout the state and country for nonprofit agencies.
- increased use of volunteers. We have hundreds of volunteers at Bethany and overall the Federation agencies last year in Michigan, had a total of 5,275 volunteers and over 1,200 volunteers as corporate board members.

- more immune to political pressure
- greater accountability in that the providing funder provides monitoring of the services
- board members who are well educated are great advocates in their own work and living environments
- staff are dedicated and our desire is to get into a particular service and are able to maintain this momentum and creativity.

We have found in Michigan that private agency per day cost is significantly lower than what the state is able to provide.

Recently Joe Young, Sr. from the Michigan Fifth House District (Detroit) was quoted as saying, "Private agencies will take risks in making changes. It takes government too long to make changes. From the time we recognize we're headed in the wrong direction, it takes another session of the legislature to turn it around."

Role of Federal and State Offices

I believe that the public agency, whether it be state or county government should be in a role to manage contracts, set priorities, evaluate and assess the results, provide oversight and demand accountability, establish standards and do this all within an atmosphere of trust and cooperative planning. I believe that it's difficult for a funder to provide and assess the same service.

Service Examples

Our foster care program in Grand Rapids, has consistently met the state objectives. In most cases 50% of those coming into care are returned home within six months. Of those remaining, 50% are returned within six months, and again 50% of the remaining number are returned within the following six months. We have an excellent multi-disciplined staff, who put emphasis on foster parent and family system intervention. In our in-home program, 80% of our high risk families are still in tact. In our refugee services program, almost 100% of the young men and women in the program have graduated from high school and are leading productive lives as members of our community. Almost all are living in ethnically similar homes. We strive always to have ethnically similar staff as well. (See Appendix C for 3 case examples)

Our Family Reunification Project (each staff has a caseload of 10 families) has been able to return 56% of the children to their homes within 6 months compared with 35% of the control group.

In 1987, the Kent County Department of Social Services expended over $500,000 for in-home care. Much of this has been a shift in funding from traditional foster care. We are supportive of this direction and are pleased with the State of Michigan Department of Social Services recent shift of $5,000,000 to implement new initiatives (Homebuilders) for in-home care.

Family Impact Program which is our cooperative program with Pine Rest Christian Hospital is focused primarily on in-home care. In a recent 5.5 months of operation, 226 individuals have been seen, with 169 being children and 59 being adults. The average income of the family has been $13,970 and 33% of families have been eligible for medicaid, 17% had private insurance, the remainder had no coverage. Family Impact is focused on children who are perceived to be at risk for out-of-home care. However, given the total efforts of the program to provide in-home services, only 2 have been admitted for out-of-home long-term residential or psychiatric care. Estimated cost of care per family has been $454 average per month. (See Appendix D for further information)

Primary reasons for admissions at Family Impact are as follows (very similar profiles are evident in our other services):

- chronic running away and not obeying rules, substance abuse, breaking laws with friends, poor social skills and adaptive functioning, violent behavior, temper tantrums, acting out, poor school performance or not attending, constant arguing/fighting with family members and others. We have found that many of the families have had previous outpatient services and often children have been placed in informal settings outside the family with relatives or friends. We have found that 8-12% of the caseload has been involved in long-term psychiatric settings prior to our involvement.

Twelve full-time clinicians at Family Impact provide a variety of therapeutic and case management services to the families. 81% of the services are provided outside the Family Impact offices and 64% were provided in the family's home.

Over the past several years we have all had experiences or read articles about children who've "fallen between the cracks." This has been primarily due to fragmented systems, and we've worked hard in Western Michigan to bring cooperative arrangements and understanding between the various funders.

However, children and families do not neatly divide themselves into social services, mental health and juvenile definitions/criteria. Often the children who are left behind are those who receive diagnoses of character disorders or affective disorders. Our experience has shown that even though they might have the definition of character disorder, in many ways it's the defense or coping mechanism for underlying thought or mood disorders. To deal with this population takes a centralized focus, massive community effort, and a commitment to be creative and work with the family system.

Michigan has been a leader in purchasing adoption services especially for older children from the private sector.

In the year of 1986-1987, a total of 978 children, all state or county permanent wards, and all victims of abandonment, abuse and neglect were placed for adoption in Michigan. 49% of the children were placed with 41 licensed, private placement agencies. The agencies participated in the adoption purchase of service program with the Michigan Department of Social Services.

There is a serious problem that I would like to address. Increasingly today, black young women are coming to adoption agencies for services. Likewise, many Caucasian young women carrying biracial children are choosing adoption. While this is a positive trend, as women are interested in adoption, it is creating serious fiscal problems for adoption agencies.

Caucasian families are willing to pay adoption fees that are required to cover agency expenses. Black families do not typically seek adoption services from private agencies, and when they do, are generally unwilling or unable to pay fees comparable to those paid by Caucasian families. It is commonly known that agencies have waiting black children, and therefore, placement through another agency willing to reduce or waive the fee entirely is always possible. Black families do adopt and do respond to aggressive recruitment efforts. However, recruitment only adds cost to placements which in turn incur financial losses to agencies. Unfortunately, around the country, agencies are turning away black pregnant women. However, Bethany sees this as an opportunity and wants to deal with it directly. In fact, in 1987, 140 or 31% of our domestic placements were black or biracial children.

Directions For The Future

- Increased preference for purchase of services written into state and federal should be encouraged. If the purchase of service is not available, then state and federal governments have the responsibility to assure services. One option would be in time to spin the service off to a nonprofit agency.

- Funding at the state and federal level must reimburse agencies for their current costs.

- State and federal and community programs must commit themselves to a cooperative and trusting relationship which involves program accountability, reporting and research.

- Standards for accountability must be developed by federal and state governments and preferably contracts should be with private agencies who have been accredited by groups like the Council on Accreditation.

- There must be federal and state reimbursement in some combination to assure the possibility of adoption for all children for whom - by virtue of any condition - the cost of their adoptions cannot be fully recovered for the adopting parents. Reimbursement must be available to any licensing agency for any waiting child regardless of whether or not the child is a public ward or in the custody of a private agency.

- Insurance companies should be encouraged to review their reimbursement standards so that more funds could be transferred to residential, foster care, day treatment services and crisis beds provided by private agencies. Insurance reimbursements are too committed to the traditional psychiatric model and too often children are referred based solely on the potential source of revenue. The medicaid program could benefit greatly from paralleling some of the changes that need to be accomplished in the reimbursement policy.

- The number of psychiatric beds around the country for children and adolescents should be limited. We should realign how we utilize these beds to a more intense short term basis and then move children and young people to less restrictive situations, and as quickly as possible to get them home.

- We must commit ourselves to a national children and youth incentive where all resources and hopes of the state and federal government are focused on pooling their resources to be supportive of the family unit. Michigan has taken a giant step forward with it's proposed Michigan Center for

Children and Families. For this to be adequately implemented, changes in funding formulas at the federal level need to be accomplished.

- Leadership is needed in the shifting of funds to high risk population groups. Given the statistics that we know about children of alcoholics and drug abusers, it makes sense to give high priority to funding of services to these families. We know already, that AIDS is on the increase among children and by 1991, there could be over 20,000 children who test positive for AIDS. We know today that three-quarters of them are children of intravenous drug users and we must address this issue now.

- Permanency planning for children needs to be encouraged and adequate funds available to support post placement services.

- Family support programs which pay families to adequately provide children who are disabled or have emotional/psychiatric problems in their home, rather than placing them in out-of-home placements.

- A federal priority must be given to reverse the trend so that more funds are shifted from out-of-home placement and into preventive or in-home treatment programs. All too often when we remove a child from his or her home, we are isolating the families potential from treatment.

- Citizens must be encouraged to support programs like Michigan Trust Fund which is a tax check off for innovative and creative programs to intervene in the area of neglect and abuse. Over $200,000 has been spent in Kent County over the past few years.

- Funding incentives and disincentives must be put in place for private agencies who contract with state and federal government. There must be consolidation of funds at the federal and state level with a transfer to the local level. These might be in the area of a block grant and more focus should be on a results rather than process. We must eliminate the need for assessment of funding sources or income eligibility as a factor in local service decisions.

- We must have centralized assessment centers where a family can come for assessment rather than themselves attempting to work through the maze of competing funding sources. We must stop the dissecting of children and families where an expensive out-of-home placement becomes the easiest solution not the best solution.

- There must be an inventory of what currently is being done with federal dollars in the area of child welfare, foster care and adoption. Currently, state annual plans are just reporting what is being done, and they don't change much from year to year. A state should be required to develop a true plan of action.
- There must be a consolidation of the Child Welfare and the Child Mental Health system. The current system perpetuates division when a consolidation of these services are needed at the local level. The families are very similar, often the only difference is in the severity of the dysfunction.
- Foster care training and the piloting and the modeling of innovative and new ideas must be fully given visibility throughout the United States.
- The federal match for adoptions subsidy should be increased over the current level of 50%. More emphasis needs to be placed on preventing out-of-home placement.
- There should be an increase match for at risk children to enhance more services to these groups particularly those focused on preventive and family preservation. The match from the federal government should be increased upwards to 75%.
- The current match for ADC foster care should be maintained. However, funds should be made available for service reimbursement rather than just limit reimbursement for maintenance.
- To pay for increased federal matches, it's suggested that part of the child welfare funds in Title XX be shifted to programs that place more emphasis on early intervention and deterance.
- To seriously explore consolidating of some of the revenue categories of Public Law 92-272 into a pool funds for maximum leverage and use at the state and community based level. Further clusters of services to assure better coordination is needed at the federal and state level.
- To require that all public and private agencies work within the same licensing standards to get some uniformity throughout the United States.

- To involve the juvenile court systems who traditionally have felt they have outside the executive branch in the overall service delivery and increasingly to focus the juvenile courts and primarily into the judiciary area rather than service area.
- To establish program and caseload guidelines and to establish performance standards to have some uniformity throughout the country.
- Nonprofit agencies must extend services to provide the full continuum needed in both the urban and rural areas.

Conclusion

To take a look at the future is going to take more than a quick fix, simple solutions or catch phrases. Government cannot be a substitute parent. An integrated approach is needed that is bold and relevant for the 1990's and our changing society. It can be done with state and federal objectives being clear. The private nonprofit sector has in many areas developed a capacity, willingness, commitment and interest to provide the services. We look forward to renewed and expanded child welfare commitments for the future.

Thank you for your cooperation and willingness to listen to my thoughts and suggestions.

BRANCHES AND SATELLITE OFFICES

*Denotes Satellite Office

ARKANSAS	
Little Rock	501-664-5729
CALIFORNIA	
Southern California Region	
Los Angeles County	213-804-3448
*Orange County	213-804-3448
*Inland Empire	213-804-3448
Northern California Region	
Modesto	209-522-5121
*Sacramento	916-965-8948
COLORADO	
Denver	303-758-4484
*Colorado Springs	303-596-3239
CONNECTICUT	
*Kensington	203-223-0645
FLORIDA[1]	
Hollywood	305-981-2060
*Dade	305-621-1999
*Lake Worth	305-588-3649
*Ft. Myers	813-433-1929
*LaBelle	813-675-4404
*Orlando	305-644-2210
GEORGIA	
Macon	912-742-6964
*Atlanta	404-243-5020
ILLINOIS	
Evergreen Pk.	312-422-9626
INDIANA	
Indianapolis	317-848-9518
Merrillville	219-769-0211
IOWA	
Orange City	712-737-4831
Pella	515-628-4606
*Des Moines	515-270-0824
MARYLAND	
Annapolis	301-263-7703
MASSACHUSETTS	
Wakefield	617-246-1890
MICHIGAN	
Fremont	616-924-3390
Grand Rapids	616-459-6273
Madison Heights	313-588-9400
Holland	616-396-0623
MINNESOTA	
Stillwater	612-439-9603
MISSISSIPPI	
Jackson	601-366-4282
*Hattiesburg	601-264-2648
MISSOURI	
St. Louis	314-644-3535
NEW HAMPSHIRE	
*Hancock	603-525-4923
NEW JERSEY	
North Haledon	201-427-2566
*Point Pleasant	201-899-0403
*Cherry Hill area	609-478-4114
NORTH CAROLINA	
Asheville	704-274-7146
*Franklin	704-369-6188
*Murphy	704-837-8261
*Raleigh	919-828-6281
OHIO	
Akron	216-867-2362
PENNSYLVANIA	
Greater Delaware Valley	215-233-4626
Millersville	717-872-0945
Pittsburgh	412-734-2662
SOUTH CAROLINA	
Greenville	803-235-2273
*Columbia	803-779-0541
SOUTH DAKOTA	
*Rapid City	605-343-3078
TENNESSEE	
Chattanooga	615-622-7360
Memphis[2]	901-454-1401
VIRGINIA	
Vienna	703-255-4775
*Fredricksburg	703-371-4630
WASHINGTON	
Bellingham	206-733-6042
WISCONSIN	
Waukesha	414-547-6557

BETHANY
CHRISTIAN
SERVICES

Corporate Office: 901 Eastern Ave. N.E.
Grand Rapids, MI 49503 (616) 459-6273

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[1] In Florida, Bethany provides services through an affiliate agency, Shepherd Care Ministries.

[2] In Memphis, Bethany is incorporated as Mid-South Christian Services.

APPENDIX B

QUICK FACTS/1988

SERVICES OFFERED NATIONWIDE

In 1944, when two women first cared for a homeless baby in their Grand Rapids apartment, they planted the seed for what is now considered one of the largest adoption agencies in the country — Bethany Christian Services. Today, Bethany is a multi-service agency with a budget exceeding $11 million and more than 280 employees in 54 locations. Reaching out to troubled children, families and individuals, Bethany strives to give professional help from a Christian perspective.

Gifts from individuals, churches, corporations and foudations provide much of the financial base for Bethany's operations. Remaining costs are met through child support payments and other fees. All contributions are tax deductible.

If you would like more information about Bethany's programs, contact the office nearest you.

BETHANY
CHRISTIAN
SERVICES

BETHANY LIFELINE

During 1987, 15,685 calls were made to Bethany's 24-hour crisis pregnancy hotline, BETHANY LIFELINE. Women from around the country dialed our 1-800-BETHANY number to be in touch with professiona~~l gu~~idance, information and encouragement. Our telephone volunteers were able to refer the caller to a local office for more intensive counseling.

PREGNANCY COUNSELING

For 44 years women with unplanned pregnancies have turned to Bethany for help. During 1987, 2,128 visited our offices for counseling. Bethany makes a commitment to help these women choose life for their unborn children. Sometimes that means helping them secure financial assistance, medical care or a place to live.

ADOPTION

Children from the United States, South America, Korea and India have found permanent homes through Bethany. In 1987, 1053 children were placed in adoptive families; 490 through Bethany's domestic program and 563 through Bethany's international program. Since Bethany's beginnings, nearly 7,000 children have joined their adoptive families.

INFANT FOSTER CARE

Through a nationwide network of families, Bethany provides temporary care for newborns while their birth mothers make a final decision to parent or make adoptive plans. In 1987, 694 infants received foster care.

SPONSORSHIP

Bethany's international sponsorship program enables individuals and groups to support physically and mentally handicapped children at Holt Il San Center near Seoul, Korea. Sponsors receive a photo and information about the child they support, in addition to regular reports on the child's progress. Because of the severity of their handicaps, these children are unavailable for adoption. During 1987, 696 sponsors opened their hearts to these special children.

VOLUNTEERS

Nationwide, hundreds of volunteers donated over 24,000 hours to assist Bethany's staff with support services, befriend clients, serve as telephone counselors or solicit support. Without their contribution, Bethany's effectiveness would be unthinkable.

ADDITIONAL SERVICES (Western Michigan Only)

FOSTER CARE FOR DEPENDENT, NEGLECTED AND ABUSED CHILDREN

During 1987, Bethany helped 460 children who came from homes where they had been neglected and abused by offering them temporary care in Christian families.

In addition, Western Michigan's Refugee Foster Care program places refugee minors — Vietnamese children under the age of ~~18 wh~~o are not accompanied by parents or other adult relatives — in licensed foster homes. During 1987, 81 children were served through this program.

ADOPTION — OLDER, SPECIAL-NEEDS CHILDREN

In 1987, 37 children were placed in adoptive homes through Bethany's contract with the Michigan Department of Social Services.

These children, who ranged in age from a few months old to teenagers, came from homes where they had been neglected or abused and parental rights were terminated. Most of them were emotionally or psychologically troubled and Bethany provided intensive training, education and support to their new families.

RESIDENTIAL TREATMENT

Bethany's Grand Rapids, Michigan, campus features two residential facilities for boys, ages 7 to 16, with severe emotional and psychological problems. In 1987, 56 boys were served. In addition, 21 girls were helped at Holt Home and 24 boys at Fisk Home — similar facilities in Holland and Fremont.

FAMILY AND INDIVIDUAL COUNSELING

In 1987, Bethany provided counseling for 1,381 families and individuals in Western Michigan with marital, family or personal problems. This figure includes 167 families who received counseling through our In-home Services program — a program that reaches out to people in their homes where many problems take place.

DAY CARE

Offering instruction in a creative environment for children ages 2 ½ to 6, Bethany's Day Care Center served 93 children during 1987. The Center, located in Grand Rapids, is licensed to serve 40 children.

APPENDIX C

DOMESTIC FOSTER CARE

Three case scenarios:

A 14 year old Caucasian girl was presented to Bethany for a possible foster care placement. Protective Services had gotten involved due to physical abuse, neglect and emotional trauma to the girl. She had not been in school for about 30 days. Protective Services involved one of their In-Home Contracts, the PACT Program to work with this girl. They had attempted to work with this family for approximately two months. During this time period, there were many explosive incidents with the girl physically attacking her younger brothers and sisters, taking a knife attempting suicide, and simply running the streets. Out of desperation, they removed her and came to the Joint Planning Committee in Kent County and recommended that she be placed in a residential setting. After discussion with our staff, we felt that we could probably place her in a foster care setting. We placed this girl in a two parent home who also had two younger children in that home - these were biological children of the foster parents. The girl adjusted fairly well; however, there were times where the caseworker had to respond to emergency situations, at one time she tore the telephone out of the wall, she threw a glass up against the wall and at one time kicked a hole in their wall. The girl made a dramatic turnaround after approximately a few months in the foster home. Where before she had not attended school, was sexually active, had these violent outbursts, after two months in foster care and receiving counseling, the child attended school on a regular basis, was very loving and caring for the younger sibs, was able to control her violent outbursts and in fact, made the track team for her school from which she threw a shot put. Her family, which was comprised of a stepfather and her biological mother, were both alcoholics. Mom and dad did split for a period of time while they received counseling. They did reunite and both were involved in the phase-back of this child back into the home. After four months, we did have the girl back home and the situation at this point in time has maintained. We have provided approximately four months of aftercare to this case and we were able to prevent an out-of-home placement.

A Caucasian girl age 13 years was a victim of sexual abuse by her stepfather. Her biological mother also engaged in some sexual activity with animals and other acts in front of the girl, therefore the police and Protective Services felt that she needed to be removed. The girl, other than needing a lot of emotional support and some tutoring to get her up to speed in her educational placement, did very well in foster care. She was placed with a couple of approximately retirement age, who gave her a lot of love and support through her testimony in the criminal case against her stepfather. This family has received counseling for their sexual abuse behavior. After four months, this child, too, was returned home and is doing real well.

A third case scenario involved a girl of age 14 years old. This girl also had two siblings, a sister who is age 12 and a brother who is age 11. The 14 year old was removed from the home basically based on the mother saying she could not control her behavior. She cited that the girl was involved in street gangs, was sexually active with boys, was using drugs, refused to go to school and was totally out of control. The child was placed in a foster home and although she did exhibit some obnoxious behaviors and some noncompliance with the rules, basically made a good adjustment to the home situation. Besides having the caseworker, we involved a family counselor, provided counseling to the girl as well as in the home counseling to the girl as well as in the home counseling to the parent which also was the situation in the previous case. Instead of having the family come in here for therapy, we reached out and did counseling in the home. The counselor worked on issues with the mother and we basically had a situation where the mother herself became pregnant at a very young age with this girl and was never able to realize her dreams of becoming fully employed and having a life-style where she felt she could meet the adequate needs of her children. The counselor worked on this on an individual basis in trying to build self esteem in the mother as well as conducted family sessions with the three children and their mother. There was a lot of resistance on the part of the family to participate in the family sessions; however, the counselor used some techniques such as bringing along a bucket of chicken or pizza or this sort of thing and actually got the family involved in therapy where this girl was returned to her mother's home within three months. The behaviors cited by the mother was not experienced by us nor was it experienced upon her return home. After providing three months of aftercare, feeling that the situation was going relatively well. However, we again ran into problems where the mother simply was saying, "I don't want the child. I don't want any of my children." She was choosing to walk out on her family. Through our efforts, we located a father who had not provided any care for these children nor seen them on a regular basis. Through initiating some visits between the children and the father, we did arrange for two of the children to live with him. This placement now, for one month, has gone relatively well. We temporarily had to put one of the children into a shelter facility due to the fact that the father's living arrangements simply were not large enough to accommodate all of his children. In working with the Department of Social Services, we have obtained emergency funds and re in the process of having him rent a larger apartment where we are providing the first month's rent and security deposit so that he can move into a larger home. Additionally, from the private sector, we will obtain the extra beds, etc. that are needed to set him up. Although this case has taken approximately four months of aftercare and we will probably need another three, we feel that it has been highly successful in that the children have not been taken out of their biological homes and placed into a long term foster care situation.

APPENDIX D

FAMILY IMPACT
INFORMATION REPORT
4/22/88

NUMBER OF CLIENTS SERVED IN 1987
(5.5 Months of operation)

144 Families or
169 children and adolescents and 57 adults for a total of
226 individual clients all with a mental health diagnosis.

DEMOGRAPHICS
AVERAGE AGE OF SYMPTOM BEARER CHILD/ADOLESCENT = 15-16 yrs.
MALE = 54%
FEMALE = 46%

WHITE = 88%
BLACK = 5%
NATIVE AMERICAN = 4.5%
HISPANIC = 1.8%

AVERAGE INCOME OF FAMILY = approximately $13,970.00 - N=20% of cases.
MEDICAID = 33% of families served
PRIVATE INSURANCE = 17%
SELF PAY = 50% - 12% of whom are unable to pay more than $5.00 per month.

SERVICE DESCRIPTION
REFERRAL CALLS = 35-40 per month
ADMISSIONS = 8-12 per month
ACTIVE FAMILIES = 115 Currently. Case Load size 15 families.
COST OF CARE = $454.00 per family average per month. - N=20% of cases.
REFERRAL SOURCES - SELF 28%, SCHOOL 25%, RESIDENTIAL PROGRAMS 12%,

CRISIS PROGRAM 8%, DSS 7%, OUTPATIENT '%, OTHER 13% (Hospitals, Bridge,etc

REASONS FOR ADMISSIONS
Chronic running away and not obeying rules
Substance abuse, breaking law with friends
Poor social skills and adaptive functioning
Exhibiting violent behavior, temper tantrums, acting out
Poor school performance, not attending
Constant arguing/fighting with family members and others

Many families have had outpatient services (some very extensive) and often have been placed out of the home in informal settings such as with relatives or friends. Others have had short stays at a Crisis hospital setting, Detention or tempory shelters such as the Bridge or Child Haven. Between 8-12% of our active caseload has been in a long term Psychiatric setting prior to our involvement.

FAMILY STRUCTURE
SINGLE PARENT FAMILY-17% of active family's (115 cases)
RECONSTITUTED FAMILY-12% of active family's
PARENTS WITH MENTAL HEALTH DIAGNOSIS - 25% of all clients served.
Family Impact focuses on the family as a whole to relieve the symptoms identified by family members. Often, the child's behavior is related

to a problem that is being felt by the whole family or the other family members are experiencing discomfort due to the presenting problem. At the very least, the entire family will be looked at to help the symptom bearer recover.

OTHER SERVICE PROVIDER INVOLVEMENT
DSS/PROTECTIVE SERVICES 10% of active cases.
COURT 9% of active cases.
SPECIAL EDUCATION programs approximately +75%.

SELECTED DIAGNOSTIC CATEGORIES OF CHILDREN/ADOLESCENTS N=88.
Adjustment Disorder With Mixed Emotional Features 10%
Adjustment Disorder With Mixed Disturbance of Conduct 9%
Oppositional Defiant Disorder 15%
Conduct Disorder Undifferentiated Type 7%
Conduct Disorder Solitary Aggressive 10%
Dysthymic Disorder 10%

Less than 10 kids are on medications

OUT OF HOME ALTERNATIVE CARE 1987
CHILD HAVEN = 5 clients averaged 38 days per stay (21)
DETENTION = 8 clients averaged 18 days per stay (10)
PINE REST CRISIS = 7 clients averaged 34 days. (11)
(Often one difficult placement has made the average longer than usual. The () days are more typical.
17% OF ACTIVE CASES (115)USED THESE ALTERNATIVES

HOSPITALIZATIONS
PINE REST TALL PINES = 6 clients averaged 58 days
PHEASANT RIDGE STATE PSYCH. 2 clients all of 1987.
These 2 were admitted by previous program and had
DSS and Mich. Indian Child Welfare as legal guardians.

CMH FUNDED RESIDENTIAL CARE 1987
AVERAGE # IN RESIDENTIAL CARE 1987 = 20
TOTAL 1987 RESIDENTIAL EXPENDITURE = $487,723.89
AVERAGE MONTHLY COST = $40,643.65
AVERAGE PER DAY COST = $66.00
AVERAGE COST PER CLIENT = $2,032 per client

FIRST QUARTER OF 1988
AVERAGE # IN RESIDENTIAL CARE = 15
YEAR TO DATE RESIDENTIAL COSTS = $106,887.11
AVERAGE MONTHLY COST = $35,629.00
AVERAGE PER DAY COST = $76.62
AVERAGE COST PER CLIENT PER MONTH = $2,375.27
We have admitted 4 children to residential services in our 9 months of operation.

Acting Chairman **Downey**. Ms. McLaughlin.

STATEMENT OF MEGAN E. McLAUGHLIN, EXECUTIVE DIRECTOR, FEDERATION OF PROTESTANT WELFARE AGENCIES, INC.

Ms. **McLaughlin**. Thank you for inviting me to share my thoughts here today.

My name is Megan McLaughlin, and I am executive director and chief executive officer of the Federation of Protestant Welfare Agencies, an umbrella organization for over 250 voluntary agencies in the greater New York metropolitan area. Among the Federation's members are 24 agencies providing foster care and prevention services designed to reduce the need for foster care.

Much can and has been said by us and others about the operational problems of Public Law 96-272. Today, however, I would like to focus on the systemic problems that face child welfare in New York and on recommendations for structural reforms to address these problems.

I believe there is a need to focus more attention on these problems because if we do not do so, we are in danger of pursuing solutions which will only continue the crises.

The first of these problems is the alarming number of children who are inappropriately forced into the foster care system by the scarcity of adequate, stable housing for low-income families. Today, following a decade of steady decline, the number of children coming into foster care in New York City is increasing at record rates. In July of 1987, according to the city, there were nearly 19,000 children in the system. By June of this year, that number is expected to increase to 21,000. There is a direct correlation between this rise and increasing homelessness among poor families. I am sure you have heard from others the litany of statistics on the rise in homelessness among families. I am sure you know that families are now the fastest growing segment of the homeless. In New York City, there are by conservative estimates, 12,000 homeless children, with one-half—6,000—of these children below the age of 5. In a soon-to-be released study by the Federation of a sample of 194 boarder babies in New York City, we found that prior to contact with the foster care system, a significant number of the biological parents of these children were homeless or living with a family or friends, and had no visible source of income or were on public assistance. At one hospital, about 40 percent of the parents reported for child abuse and neglect were identified as hotel families—families living in welfare hotels.

We believe it is no coincidence that the sudden appearance of hundreds of infants abandoned in hospitals parallels this dramatic rise in poverty and homelessness among female-headed families in New York City. Without economic security or adequate, stable living arrangements, families break down and children, their most vulnerable members, become the most visible victims.

The second major threat to the welfare of children in our city is the prevalence of drug addiction, especially crack addiction among poor mothers trapped in today's isolated ghettos. Parental use of drugs is the most common allegation in abuse and neglect petitions in New York City today—cited in 50 percent of the cases. It was recently reported that at Kings County Hospital in Brooklyn, records show that in 1984 a total of 80 reports were made by the city indicating drug use by new mothers. By 1987, however, approximately 30 reports of drug-exposed infants were recorded each month.

In addition to the dangers to children posed by drug use among mothers, the relationship among drug use, AIDS and the growing numbers of children in New York's poor neighborhoods afflicted with AIDS and ARC—now over 400—should allow none of us in child welfare to remain sanguine about the inevitable results of those connections. There is a desperate need to make war on drugs in poor neighborhoods and to provide treatment for crack addiction and specialized medical attention and followup for babies born to drug-addicted mothers. There are not enough treatment services to meet the demand and those that do exist are struggling to respond to a new addiction for which there is yet no history of effective treatment.

The third major barrier to our capacity to care for our children in New York City today is the structural discrimination against minority children. In our city, black and Hispanic children are increasingly overrepresented among poor children, homeless children, drug-exposed children, and children in foster care. In 1986, close to 80 percent of the children in foster care in New York were black and Hispanic. In our study of 194 boarder babies placed with foster families in 1987, close to 95 percent were children of color. These numbers represent neither coincidence nor racially inherited defects. Rather, they speak to the failures of our child care and family support systems to meet the needs of minority children and families as well and as often as they do the needs of nonminority children and families. To attempt to reform the child welfare system without a recognition of this uniquely disadvantaged position of minority children in New York City and elsewhere is to ignore reality. And let me state categorically, it is getting harder and harder for even the most nearsighted of us who live and work in New York City today to ignore these realities.

What can be done to address the related systemic problems of poverty, homelessness, drug abuse and racial discrimination which cripples the capacity of our child welfare system to respond to children in need? Let me start out by saying that I think we have it in our power and within our means to do much more than we have been doing to address these problems.

Today, I would like to focus on one approach which I believe would enable us to come much closer than we are now to providing healthy environments for our disadvantaged children. And that approach is redirect our policies and resources on the environments in which these children live. Much of the most recent research and analysis on poverty and its symptoms of homelessness, drug abuse and family breakdown in the 1980s, point to the importance of the environment in causing, maintaining and perpetuating family dysfunction. Among those who have written convincingly of this recently are Andrew Billingsley, Kenneth Clark, and William Wilson. In addition to the work of these esteemed scholars, there is evidence of the impact of the environment on family functioning and children coming from poor kids themselves. In a recent documentary made by the New York State Department of Social Services called "No Time to Lose," poor kids responded to questions soliciting their views on what changes could be made to improve their circumstances. They focused on changing their environments—not their families. Over and over again, you heard the answer move out of dilapidated, resource-poor neighborhoods; move away from the drug dealers and the violence they breed; move to a place where there is heat, no rats, and a job for mom.

If the kids can figure it out, so can we. What they are saying is that they are afraid of their environments—and not of their families. They are depressed by their environments—and not by their families. According to a report in the Wall Street Journal of October 27, 1987, psychologists and social workers are finding that many youngsters in these environments exhibit the same posttraumatic stress symptoms that plague Vietnam combat veterans. Let me suggest that most of us in this room, presumably members of functioning families, could not raise healthy children under the conditions facing these families.

Unfortunately, too many of the policies and programs being proposed to help poor families today focus on the family as the problem. Not enough attention is being paid to what the scholars and the kids are telling us is their greatest concern: their environment. Too many of these proposals are family-centered rather than community or neighborhood-centered, and that is because they are based on the assumption that it is families that are to be blamed for their conditions rather than the larger system.

In my view, the current focus on family support programs, including model programs like the Beethoven Project in Chicago, represent bold, necessary beginnings. However, we must become bolder and design solutions that also take into account the broader environment with which children must interact on a daily basis. To do this, we need to broaden our focus to address the needs of children for adequate and stable housing; for safe places to walk and play; for communities where their parents and neighbors—their indigenous role models—are engaged in meaningful, productive activities valued by themselves and their neighbors and their neighbors' kids; where active networks exist within their own communities to connect young people to jobs, services and learning opportunities.

In the most simplistic terms, I am describing the elements of a healthy, vital and thriving community, an environment which creates the possibility for healthier, vital, thriving families, and their healthy, vital, thriving kids. Without these elements, a family-centered approach will founder on the rocks of the fear and depression that lay outside of the immediate family circle.

I have come to believe that to continue to define the challenge of a compassionate, effective child welfare system as the need to focus more emphasis and resources solely on family-centered services—counseling, homemaking assistance and the like—is to miss the point. While these services will always be needed by some families, they are only a part of the answer. For one thing, these services tend to become available to families only after they are in trouble. To broaden our reach and really provide preventive services, we must develop a community-centered approach which takes into account the demonstrated impact and functions of community environments on family life. I also believe that in the long run this approach would be more, not less, cost effective.

Yes, this proposal is realistic and implementable. We could begin by allocating funds to enhancing the infrastructure of targeted communities, by allowing for the provision of everything from street lights, sidewalks and jungle gyms to jobs, day care, family counseling, information and referral and adequate housing. And, yes, this is a legitimate approach for a committee concerned with child welfare. It is simply an approach that embodies the knowledge we have. It is an approach that recognizes the link between community life and family life.

Thank you for letting me share these thoughts with you today.

Chairman MILLER. Mr. Kroll.

STATEMENT OF JOE KROLL, EXECUTIVE DIRECTOR, NORTH AMERICAN COUNCIL ON ADOPTABLE CHILDREN, ST. PAUL, MINN.

Mr. KROLL.

My name is Joe Kroll. I am not a service provider. I am a parent. I have one birth child and one adopted child.

I am here because my father grew up in an orphanage since he was considered unadoptable. The kinds of kids who were unadoptable 10, 15, 20 years ago are all being adopted today. The most severely emotionally disturbed or handicapped child has been adopted. I am not willing to give up on any child in the system.

I would like to highlight one child who was adopted as a result of Public Law 96-272, because I think this is an extreme case and reminds us why we are here today. In the State of Minnesota, there is a little girl—now not so little anymore—Katie. She has no motor skills whatsoever. She fell before her first birthday and suffered brain damage. A single mom met her in the residential treatment center where Katie lived. At the age of five or six, this woman discovered Katie had learned to read from watching Sesame Street. Barbara pressed the system to adopt Katie and continued to press for six years until the adoption was finalized.

This adoption saves taxpayers $2,000 a month. Because of the commitment of one woman and sound Federal policy, a child who otherwise would be bedridden in an institution has a family, attends school and anticipates a future. I think we have to remember every day that we are saving kids' lives.

On postlegal adoption services: Everyone has said there is a change in the kinds of kids coming into the system. I found a study that analyzed the characteristics of 53 children adopted at a mean age of 10.8 years. Eighty-nine percent of the children in the sample were defined as being emotionally disturbed.

Some post adoption services are paid for through Medicaid or special programs, but greater policy and fiscal commitment is needed. Our organization's recommendation is that special needs children should have as part of their agreement a plan that delineates the need for post-legal follow-up services, the services to be provided, resources available to deliver such services, and specifies combinations of funding sources.

I think this is something that should be considered very carefully.

A second category of concern is the placement of minority children. While special needs minority children wait in care, minority families simultaneously wait in the system. Five black male infants are currently on the State adoption exchange in Kentucky and over 40 under 2 are listed with the Adoption Information Center of Illinois. At the same time, a black serviceman living in Grand Forks, N. Dak., on an Army base called our office requesting information on how to adopt a black infant because there are no black children in need of adoption near his base. In New York, black and Hispanic families wait on the average of over 2 years.

Ernesto Loperena, NACAC's president and executive director of the New York Council on Adoptable Children, an organization that specializes in recruiting prospective adoptive families, reports the following:

> Currently we have 452 families waiting an average of 2 years and 3 months to adopt special needs children. Three hundred and ninety-four of these families are black and Hispanic, about evenly divided. The major problem is getting these families through the system. Although our families undergo intense preparation regarding the system and delays they will encounter, about 25 percent drop out after referral to an adoption agency for the homestudy process. Between 6 to 9 months is spent to complete a typical homestudy. This process should take no longer than 6 to 9 weeks.
>
> The next major hurdle families face is the so-called matching process. A family will identify a specific child, usually from a photo listing. The adoption agency worker quite often has ingrained attitudes about what constitutes an ideal family. Too often this "ideal" flies in the face of social reality. Many minority families live within extended family situations. Because of this, living space may be considered cramped. Further, in many urban areas railroad flats in older tenements are normal. Quite often bedrooms in these apartments do not have windows. In others, both parents must work to maintain a decent standard of living. In still others, it may be a single parent situation. Added to these are attitudes about being too old or too fat or too skinny. These factors, in myriad combinations, are used to disqualify families who apply for specific children.

Their experience suggests that the recruitment of families, including minority families, is not the problem. In fact, HHS studies show that black and Hispanic families adopt at a greater rate than white families. Culturally and racially sensitive recruitment programs have proved successful in many areas of the Nation. NACAC supports programs that recruit, assess, and match families with children of the same race. Agencies with minority children in care must have programs in place to find and assist such families.

Recommendation: There must be a national commitment of Federal, State, and local programs, personnel, and resources to recruit, prepare, assess, and place minority adoptive children with families of the same race. At the Federal level, a specific program initiative should be added to Public Law 96-272, that requires as a measure of programmatic success the achievement of the same placement rate for nonwhite children as for white children.

Rather than a situation where black infants in Cook County wait for families, there should be families waiting for those children and if the Cook County agency does not have them waiting, they are not doing their job and something should be done. Those kids should not wait. Families are out there. Public agencies who have those children in their care should be held responsible.

The final recommendation is very technical in nature and I would like to go through my example very carefully. We have found that throughout the country States cannot impose an income requirement or use a means test to restrict eligibility for Federal adoption assistance—at least one State, Illinois, has received HHS approval to institute a family income ceiling above which no cash assistance is available. Sounds suspiciously like a means test which legislative intent clearly prohibits.

However, there is no such prohibition against a means test in State-funded programs. While most States do not have means tests, in several States, including Delaware and Arkansas, an adoptive family's income is used to determine the level of benefits for the adopted children. As a result of these inequities, all special needs children do not have equal access to adoption assistance benefits.

For example, Tom 15, John 12, and Dave 11, are brothers in the foster care system in the State of Arkansas. Parental rights have been terminated as a result of abuse. By any standards, the size of the sibling group, their ages, and the abuse in their background would qualify these boys as special needs children, and therefore eligible for adoption assistance benefits.

However, because of their biological family's financial status when they entered foster care, they were not eligible for the title IV–E foster care program, and therefore are not eligible for the Federal adoption assistance program. In Arkansas, the State adoption program determines children's benefits based on the income of the adoptive family. After a family was identified and their gross income calculated, it was found to be above $21,452 maximum allowed for a family of five. These children will not receive adoption assistance and this family cannot afford to adopt them.

The situation occurs elsewhere. It is a bad set of circumstances. It is one of the reasons means tests are not allowed at the Federal level, but it does go on in this country.

I propose that all children legally free for adoption, regardless of the situation of their biological or adoptive parents, be declared families of one. They would then be eligible for Federal AFDC benefits and adoption assistance programs. That is a straightforward change. It obviously has fiscal implications, but it is one that should be considered.

There is a final point which is not in my written testimony that I would like to make, and which I hope you will ask the representatives of HHS when they testify. We have observed in state audits, both of the foster care programs and the adoption assistance program, that it appears there is an accounting mentality in these audits and, that they look for ways to reduce the amount of money a state receives. For example, as a result of the audit of Minnesota's IV–E program, $493,000 in reimbursement claims were denied.

In spite of the financial input that program remains in compliance. It suggests that we are looking at things from an accounting perspective as opposed to a programmatic perspective. I think that is a question worth asking the administration officials.

Thank you for the opportunity to testify. I hope I can be of continued assistance.

[The prepared statement follows:]

STATEMENT OF JOE KROLL, EXECUTIVE DIRECTOR, NORTH AMERICAN COUNCIL ON ADOPTABLE CHILDREN

Mr Chairman and Members of the Committee, I thank you for this opportunity to appear before you today to discuss foster care, child welfare and adoption reforms. I am Joe Kroll, executive director of the North American Council on Adoptable Children (NACAC) and parent of two children, one by adoption. NACAC is an organization of adoptive parent groups, adoption agencies, and individuals who are committed to improving opportunities for permanent homes for "special needs children" waiting for families. For over thirteen years we have been involved at the local, state, and national level as advocates for children who wait.

Impact of PL 96-272

Everyone in this room can be proud of their work on behalf of special needs children. This landmark legislation plays a direct, significant, positive role in many lives. The programmatic initiatives and financial incentives provided in the law have allowed many children to grow up in permanent, nurturing families rather than drifting in foster care or spending their lives in institutions. I offer several positive examples of the impact of the act.

Katie is a 14-year old with no motor skills. She fell before her first birthday and suffered brain damage. All of her physical needs have to be met by someone else. Barb first met Katie while doing physical therapy at Katie's residential treatment center in Minnesota. They began to work together and something special happened. As they communicated, Barb discovered that Katie had learned to read watching "Sesame Street". Barb pressed the system to adopt Katie and met with many obstacles along the way. It took over four years for the adoption to take place. Katie now receives maximum benefits from the State of Minnesota. Through the commitment of one woman and the help of sound federal and state policy, a child who otherwise would be bed-ridden in an institution has a family, attends school, and anticipates a future. By the way, this adoption saves taxpayers $2,000/ month.

Martin was a thirteen-year-old who had been in ten foster homes in four years. His social worker talked with him about his options, and Martin said "find me a family". An active recruitment effort was begun, and through a photolisting book, Martin was eventually adopted by a family in Virginia. He is now in his second year of college. Because Martin was determined to survive, and because the federal government encouraged recruitment efforts and provided adoption assistance, Martin has a family.

Major Modifications to the Law, 1980-1988

In the eight years since the passage of PL 96-272 a number of problems have been solved through statutory and regulatory change to make the Act serve children better:

1. As a result of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) children receiving federal adoption assistance are eligible for Medicaid and Title XX social services in the states where they reside, regardless of whether this is the same state with which the

parents have an adoption assistance agreement (effective October 1986).

2. Also as a result of COBRA, states have the option to provide Medicaid coverage for children who are receiving benefits from state or local adoption assistance programs by defining them as medically in need (effective October 1986).

3. The Omnibus Budget Reconciliation Act of 1987 required that the Secretary of Health and Human Services (HHS) create an Advisory Committee on Adoption and Foster Care Information to recommend a system to collect uniform foster care and adoption data. Their report was submitted on October 1, and the Secretary is required to propose a data system to Congress by July 1, 1988. Full implementation is to take place no later than October 1991. Though this time frame is reasonable given the number of bureaucracies involved, implementation is a long way off. We will not be able to properly document progress on behalf of waiting children until we are able to count them accurately.

4. Policy announcement 87-03, issued by HHS in July 1987, clearly identified those elements that must be included in Title IV-E adoption assistance agreements. A model adoption assistance agreement was also provided. For years advocates had argued for consistency in this program, but it took the 427 audit process to convince administration officials that absence of such a model had made the program difficult to evaluate by the federal government.

All of the actions cited above could have been expedited through the rule-making authority of HHS, or at the very least through leadership in suggesting changes to Congress or other departments in the administration (Medicaid issues). It has taken too many years to make these minor, but significant, changes.

Proposed Amendments to PL 96-272

I would like to propose several amendments that would increase the effectiveness of PL 96-272 , and that require Congressional leadership since the administration is reluctant to make program changes through its rule-making authority. These changes are in the areas of post-legal adoption services, placement of minority children, and federal eligibility criteria.

Post Legal Adoption Services

It is clear that perceptions of adoption have changed. The adoption community has come to recognize that an adoptive family is different in some significant ways from a family created biologically. As stated in After Adoption: A Manual for Professionals Working with Adoptive Families published by the Illinois Department of Children and Family Services in June 1987:

> Adoption is neither just a legal act nor a time-limited social process; rather, it is a condition that impacts

> those involved over their entire lives. The issues raised by adoption are never fully put to rest.

The manual referenced above provides an excellent discussion of some of these potential differences. It is beginning to be recognized that a great many adoptive families experience similar difficulties and challenges.

In addition, the children being placed for adoption are often older and "tougher" than children who were able to be placed in the past. Many of these kids have had extremely traumatic life experiences that result in on-going challenges. For example, a recent study analyzed a sample population of 53 children adopted at a mean age of 10.8 years. Eighty-nine percent (89%) of the children in the sample were defined as being emotionally disturbed. (From Ellen E. Pinderhughes. Characteristics of Hard to Place Children and Short Term Outcome of Adoption. Unpublished Doctoral Dissertation. Yale University, 1986.)

Evidence of this new understanding of the adoption process can be seen in family preparation plans that include provisions for ongoing therapy, and adoption subsidy agreements that include family and child counseling. There is clear need for availability of post legal adoption services as a means of insuring the long-term health and stability of adoptive families.

In Michigan and Arizona, for example, subsidized adoption agreements provide state-funded post legal adoption counseling services to individual children and families that go beyond federally-funded Medicaid benefits. Both states supplement federal benefits with state dollars.

Recommendation: **All special needs children should have as part of their adoption assistance agreement a plan for post adoption services that delineates the need for services, the services to be provided, resources available to deliver such services, and specifies combinations of funding sources.**

Placement of Minority Children

While special needs minority children wait in care, minority families simultaneously wait in the system. Through interviews with state adoption staff I learned that five Black male infants are currently waiting for families in Kentucky and over 40 Black children under two are listed with the Adoption Information Center of Illinois. At the same time a Black married serviceman living in Grand Forks, North Dakota called our office requesting information on how to adopt a Black infant because there are no Black children in need of adoption near his base. In New York, Black and Hispanic families wait on the average of over two years.

Ernesto Loperena, NACAC's president and executive director of the New York Council on Adoptable Children, an organization that specializes in recruiting prospective adoptive families, reports the following:

> Currently we have 452 families waiting an average of 2 years and 3 months to adopt special needs children. Three hundred ninety-four

(394) of these families are Black and Hispanic, about evenly divided The major problem is getting these families through the system Although our families undergo intense preparation regarding the system and delays they will encounter, about 25% drop out after referral to an adoption agency for the homestudy process Between 6 to 9 months is spent to complete a typical homestudy This process should take no longer than 6-9 weeks

The next major hurdle families face is the so-called matching process A family will identify a specific child, usually from a photolisting The adoption agency worker quite often has ingrained attitudes about what constitutes an ideal family Too often this "ideal" flies in the face of social reality Many minority families live within extended family situations Because of this, living space may be considered cramped Further, in many urban areas railroad flats in older tenements are normal Quite often bedrooms in these apartments do not have windows In others, both parents must work to maintain a decent standard of living In still others, it may be a single parent situation Added to these are attitudes about being too old or too fat or too skinny These factors, in myriad combinations, are used to disqualify families who apply for specific children

Their experience suggests that the recruitment of families, including minority families, is not the problem. In fact, HHS studies show that Black and Hispanic families adopt at a greater rate than white families Culturally and racially sensitive recruitment programs have proved successful in many areas of the nation NACAC supports programs that recruit, assess, and match families with children of the same race Agencies with minority children in care must have programs in place to find and assist such families

Recommendation: **There must be a national commitment of federal, state, and local programs, personnel, and resources to recruit, prepare, assess, and place minority adoptive children with families of the same race At the federal level, a specific program initiative should be added to PL 96-272, that requires as a measure of programmatic success, the achievement of the same placement rate for non-white children as for white children**

Eligibility Criteria

All special needs children do not have equal access to adoption assistance benefits In the federal program, states cannot impose an income requirement or use a means test to restrict eligibility for adoption assistance. At least one state, Illinois, has received HHS approval to institute a family income ceiling above which no cash assistance is available Sounds suspiciously like a "means test" which legislative intent clearly prohibits

However, there is no such prohibition against a means test in state funded programs While most states do not have mean tests, in several states including Delaware and Arkansas, an adoptive family's income is used to determine the level of benefits for the adopted children. As a result of these inequities all special needs children do not have equal access to adoption assistance benefits. For example:

> Tom 15, John 12, and Dave 11, are brothers in the foster care system in the state of Arkansas. Parental rights have been terminated as a result of abuse. By any standards, the size of the sibling group, their ages, and the abuse in their background would qualify these boys as "special needs children", and therefore eligible for adoption assistance benefits. However, because of their biological family's financial status when they entered foster care, they were not eligible for the Title IV-E foster care program, and therefore are not eligible for the federal adoption assistance program. In Arkansas, the state adoption program determines children's benefits based on the income of the adoptive family. After a family was identified and their gross income calculated, it was found to be above the $21,452 maximum allowed for a family of five. These children will not receive adoption assistance and this family cannot afford to adopt them.

Recommendation: **All children legally freed for adoption be declared families of one. Based on income at the time of termination of parental rights they would be eligible for federally funded AFDC benefits and thus eligible for the federal adoption assistance program.**

Thank you for the opportunity to testify and present the views of the North American Council on Adoptable Children. Our continued assistance is available to you.

Chairman MILLER. Thank you very much.

Thank you all for your testimony.

Mr. Pierce, I think you are right that we have to move the system more toward the notion of family services in composite. What we are seeing across the country I think is a number of efforts undertaken in various locales to try to see whether or not that can be done in redesigning on a pilot or experimental basis to break down some barriers in terms of classification of people before they are eligible for services.

It appears to be having a fairly positive impact. It takes a while to get some of the State and county agencies to rethink it, but it is an idea that is continuing to grow.

Initially when we wrote the law, that was our intent; we thought the IV-B money would continue to grow. We had the theory that we would realize savings in maintenance money because the children were out of the system. We just forgot to continue the money. That is what these hearings are about, to see if we could move the moneys again so we can knock down the number of families that take it. So we are on the same wavelength in terms of our goal.

Mr. PIERCE. There is at the Federal level a program called CASSP. We have a fairly extensive one in Pennsylvania. It looks like there are some things in that that would work. If we could, in terms of looking at legislation, work that concept into some more of those so that there may be some ways to trigger a better response to that.

It really came from mental health. It should be focused on mental health and child welfare and education. If you could do something at the national level to push that that way, that would be very helpful at least for a state like ours.

Chairman MILLER. I don't disagree with you.

Ms. McLaughlin, how are you piecing together the reimbursement for your drug-related and AIDS-related babies? How are you doing that in the foster care system?

Ms. MCLAUGHLIN. The kids in the hospital care system are covered by medicaid. Once they moved into the foster care, they are taken over by foster care.

Chairman MILLER. There is apparently still a great deal of concern that there are some barriers to that happening. Has that been overcome in New York?

Ms. MCLAUGHLIN. I don't know if the barriers have been overcome, but tremendous strides have been made because of very special incentives to pay more and speed up the system. That was made possible by a program called Adopt a Hospital Program where a private agency was linked up with a public hospital.

Chairman MILLER. So is the census of babies in the hospitals coming down?

Ms. MCLAUGHLIN. Yes. We have a study coming out that shows the matching up of agencies across the city. The number of cases has decreased dramatically.

Chairman MILLER. Those children would be going to what kind of settings?

Ms. MCLAUGHLIN. Foster family homes for the most part.

Chairman MILLER. Some of the testimony the subcommittee has received is that, obviously, the drug-related babies are very, very difficult to take care of because of their behavior patterns when they are born. Are we doing anything in terms of helping those families who are taking those babies or are they just providing shelter?

Ms. McLaughlin. The foster parents are not being properly trained. I would also suggest that the agencies are not doing adequate follow-up to know what is happening once the kids are placed. With the rush to move kids out of the hospital, and that is a positive thing, that happens.

Some have gone to group settings. We are not very pleased with that either.

Chairman Miller. What numbers?

Ms. McLaughlin. They have set up some special facilities. They are not called group homes because they are for babies.

Chairman Miller. Do we know whether or not those group settings provide any specialized treatment?

Ms. McLaughlin. No. We have not geared up in New York City in terms of specialized treatment. Even agencies that have taken AIDS kids, which are some of them, better prepared, they have to come up with their own programs. We are moving to help social service workers to deal with things like AIDS. We are way behind in terms of helping workers understand drug usage and how to deal with either the parents or the kids.

Chairman Miller. That was my concern. I get a sense in talking to people in some of the large urban areas of the country that people are so exhausted in trying to get the kids out of the hospitals, that at that point, there is kind of sigh of relief and there is not a formalized—San Francisco may be coming close—system in terms of following up the care.

The descriptions of a large number of these babies suggest that they will exhaust you pretty quickly. Because of the drug dependency, they don't have the behavior patterns of normal infants.

Ms. McLaughlin. And many of the agencies currently have vacancies they cannot fill. They place the kids and they have to keep placing more kids, but they lack staff, even when money is available. This is not necessarily because they don't have money, but they are not able to recruit a staff.

The crisis we have not talked about here is the crisis of getting trained workers even to consider and stay in the system. That is a subject of another hearing. We have to talk about ways of recruiting staff into the system and keeping them.

Right now in New York City, the city is, I don't want to say in crisis, but it is having serious problems because of lack of staff to follow up in these cases.

Chairman Miller. Does your agency deal with them?

Mr. Haveman. We have asked that they all develop resources for children who are coming in who are testing positive. We have done that, put together protocols, training, foster families. We bring them all together.

Chairman Miller. Both for AIDS and drug related?

Mr. Haveman. Yes, sir.

Chairman Miller. So those children are now in that system?

Mr. **Haveman**. That is right. We have not seen the tremendous volume that New York has. We feel we have to prepare now because those numbers will grow.

Mr. **Kroll**. Nonrecurring expenses they are eligible for, but——

Chairman **Miller**. Because the child was not AFDC when they entered the system?

Mr. **Kroll**. Yes, sir. The point I was making was that if we took every child free for adoption and declared them families of one, they would be eligible for AFDC.

Chairman **Miller**. There must be an easier way.

Mr. **Kroll**. Pretty slight.

Chairman **Miller**. Except we would have to respond to the increase of AFDC funds.

Is that a State determination for eligibility?

Mr. **Kroll**. Yes, sir.

Chairman **Miller**. We don't require it?

Mr. **Kroll**. For non-AFDC kids, some States have means tests for the potential adoptive families.

Chairman **Miller**. What is the value, the means test for a family that says they don't give a damn?

Mr. **Kroll**. It is for the potential adoptive families.

Chairman **Miller**. I thought it was the former family because they were not AFDC.

Mr. **Kroll**. But the adoptive family is looked at.

Chairman **Miller**. I understand that. We would not want the kid to go to a nice middle-class home, God forbid. We could run out of children.

Mr. **Kroll**. Abuse doesn't know income limitations.

Chairman **Miller**. But it knows it more in poor families than it does in families with stable income.

Mr. **Kroll**. The biological parents had enough money to keep the kid out of AFDC.

Chairman **Miller**. There are human elements we can't legislate. We don't prohibit means testing.

Let me ask you something. What is that payment worth?

Mr. **Kroll**. In the State of Arkansas, about $150 per month per kid.

Chairman **Miller**. I assume if we give that kid $150 a month and they are in a rich family, we are still way ahead.

Mr. **Kroll**. Surely.

Chairman **Miller**. So we are going to save that $150. Usually people get fired for that kind of thinking. I am sure you get awards for how to save the state money.

Mr. **Kroll**. Luckily there are not a lot of states that operate that way.

Chairman **Miller**. You have heard some of the discussion here. I think the witnesses have moved this discussion. If I could tell you the argument that went on inside the conference committee and closed committee rooms about the notion of people profiteering off this system and all the baggage various legislators brought to that conference 10 years ago—I think we have the potential here not to worry about whether the family is wealthy or the payment follows. They don't make any economic sense, those debates.

I think we have moved farther, learned about the training. The value of foster parents is so different than it was 10 years ago. Maybe it is because they are a scarcer resource. Maybe it is because the kids we are handing off to them may cause them to rethink their volunteerism.

This may run counter to the notion of permanency. Those kids, if you are not successful, continue to get kicked around in the system.

Mr. KROLL. They will probably be in foster care until they graduate from the system, one at a time.

Chairman MILLER. And their children will probably be there, too.

I would like if the staff would talk more about how you are moving these kids out of the hospital. We are trying to talk to people in different areas to see if we have erected—some areas—to be sure we can move these kids into some skilled foster care.

[Whereupon, at 1:50 p.m., the joint committees adjourned.]

FOSTER CARE, CHILD WELFARE, AND ADOPTION REFORMS

THURSDAY, MAY, 12, 1988

U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Public Assistance and Unemployment Compensation, Jointly With the Select Committee on Children, Youth, and Families,

Washington, DC.

The committees met, pursuant to call, at 10:10 a.m., in room B-318, Rayburn House Office Building, Hon. George Miller (chairman of the Select Committee on Children, Youth, and Families) and Hon. Thomas J. Downey (acting chairman, Subcommittee on Public Assistance and Unemployment Compensation) presiding.

Chairman **Miller**. The joint meeting of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means and the Select Committee on Children, Youth, and Families will come to order.

During the past month, we have been conducting oversight hearings on the most vulnerable segment of society—children who, through no fault of their own, are removed from their families and placed in foster care. These are children for whom government has taken responsibility. A decade ago, the abuse and mistreatment of children in the foster care system led Congress to enact Public Law 96-272, to provide hundreds of thousands of children greater security and protection from harm.

As one who spent several years developing those reforms, I have viewed with great dismay this administration's failure to implement the law.

In 1981, less than 1 year after the reforms were enacted, this administration sought the outright repeal of the law. The Congress refused.

Yet, during investigations by the Select Committee on Children, Youth, and Families, we have heard very disturbing testimony that the Department of Health and Human Services has essentially tried to "repeal" the law through its lax enforcement of the law. And the result of this indifferent administration has been continuing harm to children and their families.

The evidence presented by foster children, foster parents, state and local administrators, caseworkers, and child advocates alike declares that thousands of children are in the child welfare system unnecessarily, due to a critical shortage of housing and lack of services which the children and their families need.

We heard very painful testimony from Boyd, a 12-year-old child who described for us his experiences in foster care: being moved from foster home to foster home, sometimes in abusive situations, placed once with a foster family who spoke no English, and finally reunited with his family only after his mother brought legal action to regain his custody.

A county administrator in Minnesota conducted a random survey and found that, in Minnesota, people pay more to board their dogs in a kennel than we pay foster parents to care for these children.

Caseworkers reported that the child protection system is severely overburdened, understaffed, and in crisis: they reported inadequate time for proper investigation; insufficient resources to do followup work with families because case loads are so high. As a result, workers, placing further burden on the system, remove children from families that could remain together, given proper counseling and attention.

And what has been the response of the administration, an administration charged with enforcement of the law, even if it is a law they don't like?

Litigators have described numerous lawsuits against States for failure to comply with the mandates of Public Law 96-272—violations that cause serious harm to children and cost taxpayers tens of millions of dollars a year. Yet, the States in which these suits are pending all passed recent Federal audits or have not been audited at all.

The purpose of this hearing is to provide the administration an opportunity to respond to this testimony and to describe the current status of children in foster care, and the capacity of State and local child welfare and foster care systems to implement the law given increases in child abuse reports, homeless children and families, children living in poverty, and the impact of the drug epidemic on these systems.

What steps has the administration taken to alleviate these problems? We, as a society, cannot wait any longer to address these critical problems.

I am particularly pleased to have, in addition to the administration, a panel of experts who will help us look to the future of child welfare services. These experts have been administering programs, serving children and their families, and advocating on their behalf. I welcome their guidance and assistance as we grapple with the very difficult issues of how to ensure that foster care and child welfare systems better serve the children and families in their care.

At this time, I would like to recognize Congresswoman Kennelly for an opening statement.

Mrs. KENNELLY. No statement, Mr. Chairman.

Chairman MILLER. Mr. Evans?

Mr. EVANS. No.

Chairman MILLER. Mr. Hastert?

Mr. HASTERT. I am glad the Public Assistance Subcommittee and the Select Committee on Children, Youth, and Families have been able to conduct this important series of hearings on Public Law 96-272.

This law was innovative and certainly a bold piece of legislation when the Congress passed it back in 1980. It now falls to us to make certain that the legislation is implemented properly and we take whatever steps seem necessary to increase the help society extends to children whose own families are not able to provide the support and guidance requisite to normal development.

But, in doing so, I would certainly counsel patience. Foster care systems have serious and sometimes permanent problems.

The organizations our society has developed over many decades to help these children and their families are extremely complex and face exceedingly difficult problems.

We really don't know a great deal about how to help these families.

In previous testimony before our committees, it seems to indicate that many States are just now beginning to implement effectively the 1988 legislation.

Despite these formidable obstacles, some progress has been made, although, as always, improvements are possible and necessary.

So let's do our job and see where the Congress can nurture improvements, but let's also be slow to criticize any of the major actors in this complex, but important system that is helping some of our Nation's most victimized children.

I might say, Mr. Chairman, my experience has been limited in Congress, but my experience in the Illinois General Assembly in putting in place the Child Abuse Protection Act and laws for determining what the families' rights are so we can move kids out of foster care and into the adoptive area is complex and one family's problems are another family's assets. It is therefore difficult to pass a law that affects everybody the same way, because each of these problems is unique.

As I began to look at the problems across the scope of this Nation—we would go to Colorado and find out the delivery system was on a county basis, whereas in another State it would be on a statewide basis.

So it is difficult to really put an umbrella over everything.

I think that is probably the crux of the problems and the differences and ambiguities that we see here.

Thank you for bringing this very important issue before the select committee and I certainly think we are heading in the right direction in questioning to try to find new solutions.

Chairman MILLER. Thank you.

[The statement of Acting Chairman Downey follows:]

OPENING STATEMENT OF
THE HONORABLE THOMAS J. DOWNEY (D., N.Y.), ACTING CHAIRMAN, SUBCOMMITTEE ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION AT THE FINAL JOINT HEARING ON CHILD WELFARE, FOSTER CARE AND ADOPTION ASSISTANCE REFORMS

The hearing will come to order.

The previous two days of testimony have been an interesting experience for those of us who usually spend our time thinking up ways to improve and expand Federal legislation. Our witnesses have told us some horrifying stories but their conclusions are even more shocking: back in 1980 we wrote a good law but it was never implemented.

It never got the resources it deserved and the Department of Health and Human Services took a "Look Ma, no hands" approach, expecting the States to carry it out with little guidance and almost no support. The victims of this policy were not Governors, bureaucrats or legislators. The victims were children. We will pay for this neglect, many times over, in the years to come.

Our first witness today is Ms. Sydney Olson, HHS Assistant Secretary for Human Development Services. Although admittedly the new kid on the block, Ms. Olson is the Federal official responsible for the child welfare and foster care programs. She is the person we hold accountable for carrying out the letter -- and the spirit -- of the law. It's time we got some answers to what seem to me to be some embarrassingly basic questions:

- o Why, despite the 1980 law, do the horror stories continue? Children who need these services deserve the best we have to offer and they're not getting it.
- o Why do we know so little about the children who use our child welfare and foster care system and why isn't HHS doing more to collect this information?
- o There is considerable evidence of failure to comply with the 1980 law. Why is HHS tolerating this? What are you doing to assure compliance?

We will conclude today's hearing with a panel of witnesses who will talk with us about the future of the child welfare and foster care programs. They will share with us their views on what can and does work and will talk about where the system needs to go in the next decade, a fitting close to a series of hearings designed to help us set the agenda for the remainder of the 1980's.

Chairman **Miller**. Our first witness will be Hon. Sydney J. Olson, Assistant Secretary for Human Development Services, U.S. Department of Health and Human Services.

Welcome to the committee, Ms. Olson. Please proceed with your testimony.

STATEMENT OF SYDNEY J. OLSON, ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ACCOMPANIED BY BETTY STEWART, ASSOCIATE COMMISSIONER FOR THE CHILDREN'S BUREAU; AND JOSEPH MOTTOLA, DEPUTY COMMISSIONER, ADMINISTRATION FOR CHILDREN, YOUTH, AND FAMILIES

Ms. **Olson**. Thank you, Mr. Chairman.

I appreciate the opportunity to appear here today.

I am accompanied by Joe Mottola, the Deputy Commissioner of the Administration on Children, Youth and Families; and Betty Stewart, Associate Commissioner for the Children's Bureau.

I have a long statement for the record and I will read a shorter statement.

I welcome this occasion to detail the progress States have made in improving their foster care and adoption programs and to discuss the Department's role in the administration of these and other programs for the protection of children.

The enactment of Public Law 96–272, the Adoption Assistance and Child Welfare Act of 1980, made significant changes in the goals, requirements, and administration of programs designed to protect children.

This law sought to: prevent unnecessary separation of children from their parents; improve the quality of care and services to children and their families; and encourage the placement of children into permanent homes through reunification with their parents or through adoption.

The Office of Human Development Services embraces these goals. Through administration of these programs and through the targeted use of research and demonstration resources, we have helped the States to reduce the number of children in foster care and to find permanent homes for many children.

While State child welfare programs have many problems to overcome, it is appropriate to note the considerable progress they have made over the last 8 years.

First, there are fewer children in foster care. The total number of children in foster care, both title IV–E and nontitle IV–E eligible, has decreased from an estimated 502,000 in 1977 to approximately 275,000 at the end of 1985, the last year for which we have comprehensive data. We understand, however, that the number of children in foster care has increased slightly in the last few years.

Second, children are in foster care for shorter periods of time. In 1980, the median length of time a child spent in foster care was 27 months. By 1985, it was 18 months, a decrease of 33 percent. Recent data indicate that one-half of children leave foster care within 1 year and three out of four children leave within 2 years of placement.

Third, more children are reunited with their families. In 1982, approximately half the children who left foster care were reunited with their families; by 1985, two-thirds were reunited.

Fourth, fewer children are in institutions.

The number of children placed in institutions has decreased significantly—from 70,280, or 14 percent of the 502,000 children in foster care—in 1977, to 27,500, 10 percent of 275,000 children, in 1985.

Finally, more children with special needs are adopted. In fiscal year 1987, an average of about 31,000 "special needs" children eligible for title IV-E reimbursement were receiving adoption assistance payments per month. Less than a decade ago, many of these children were considered "unadoptable," and would, in all likelihood, have remained in foster care.

Although States have made much progress in meeting the goals of Public Law 96-272, we recognize that more remains to be done and that the problems faced by today's child welfare system are different from those faced in 1980. For example: the incidence of child abuse and neglect reported to child protection agencies has increased throughout the country. The incidence of reported child sexual abuse, in particular, has increased at an alarming rate.

The children in foster care today tend to be older, more troubled, and have more complex problems. Some experts estimate that 70 percent of children coming into the foster care system have family problems related to substance abuse. Special problems are also presented by AIDS and drug-addicted infants entering the foster care system.

The State and Federal Governments have distinct, but interrelated responsibilities as they pursue the common goal of strengthening American families. States provide foster care, adoption assistance, and child welfare services directly to families and children. The Federal Government, by statute, is directed to cooperate with States in order to "establish, extend, and strengthen child welfare services."

Title IV-E of the Social Security Act is an open-ended entitlement program that provides Federal matching payments to States for eligible children placed in licensed or approved foster homes or child care institutions.

It also provides adoption assistance payments to families who adopt eligible children with special needs. These children include those who are older, physically, emotionally or mentally handicapped; of minority heritage; or members of a sibling group who should be placed together. Funding is also available under title IV-E for administrative and training costs.

Federal spending for foster care and adoption assistance has risen dramatically over the last few years. Since 1981, total Federal spending for foster care under title IV-E has risen from $382.9 million to an estimated $701.6 million in fiscal year 1987, an 83 percent increase. During that period, Federal spending for maintenance payments rose from $278.4 to $429.5 million, a 54.3 percent increase. The Federal share of administrative costs has gone from $30.2 to $246.9 million, a 717-percent increase.

The adoption assistance program began quite modestly in fiscal year 1981, with Federal spending of less than $500,000. By fiscal year 1987, Federal spending for adoption assistance was $71.6 million.

Title IV-B, Child Welfare Services, is a formula grant program in which funds are distributed in two ways: One, each State and territory gets a relative share of $141 million; and two, each State receives an additional allocation if it meets the incentive requirements under Section 427 of the law. In fiscal year 1988, $239 million was appropriated for title IV-B.

Given the requirement for verification of State eligibility for section 427 incentive funds and the dramatic increase in State expenditures of the open-ended funds under title IV-E, the Office of Human Development Services has placed special emphasis on conducting section 427 compliance reviews and instituting title IV-E fiscal reviews.

Section 427 reviews verify first that States have implemented administrative policies and procedures to carry out certain statutory requirements. We verify that the State has conducted the required inventory of all children and made the appropriate determinations for each child on the necessity for and the goal of the placement as well as the services necessary to achieve that goal.

We verify that the State has implemented a statewide information system which tracks the status of each child. We verify that the State has implemented a case review system which includes a case plan, periodic reviews, and dispositional hearings. We also verify that the State has implemented a service program designed to return children to their parents or, if that is not possible, to have them placed for adoption or in another permanent arrangement.

We then conduct an actual case record survey to verify that every child in the sample has a case plan as defined in the law and that it contains each of the 9 elements and protections required by section 475, as well as a periodic review every 6 months and a dispositional hearing within 18 months of a child's placement in foster care.

Currently, all jurisdictions except Massachusetts, Wyoming and Puerto Rico, are receiving section 427 incentive funds. Each State's eligibility for such funds is reviewed by the Department for the first and second years, and for every third year thereafter in which these funds are received.

From fiscal year 1982 through fiscal year 1987, OHDS conducted 152 section 427 compliance reviews. In all but 25 instances, or 16 percent, the States met the review criteria. States fail section 427 reviews primarily because of untimely periodic reviews and dispositional hearings.

Each of these section 427 reviews are labor-intensive activities. The average section 427 review requires four Federal reviewers and three State reviewers for 4 to 5 days, or an average of about 32 person days per review.

We are currently conducting three different types of reviews of the title IV-E provisions of the law. Since 1984, OHDS has been conducting fiscal reviews of State foster care programs. Reviews of adoption assistance programs began in 1985 and of title IV-E administrative costs in 1986.

The review of the foster care and adoption assistance programs focus on whether: One, payments are being made by States on behalf of children who are eligible for foster care or for adoption assistance; two, payments are being made to eligible foster homes and institutions which meet licensing standards; and three, that payments and payment levels are appropriate.

From fiscal year 1984 until now, we have reviewed the foster care program in 43 States and have conducted reviews in some of the larger States two or three times. During the past 4 years, we have dedicated at least 1,500 persons days or approximately 7½ person years to title IV-E foster care reviews. As a result of these reviews, disallowances have been assessed against 26 States totaling over $3 million, with pending disallowances totaling in excess of $16 million.

In addition, where special problems or issues arise, we or the Department's Office of the Inspector General will conduct more indepth reviews. For example, the Inspector General is currently reviewing claims from New York and California, States which have extremely large foster care populations and, therefore, require more extensive time and work to complete the reviews.

Since 1985, we have conducted adoption assistance reviews in 17 States. Disallowances totaling $98,625 have been assessed with pending disallowances in excess of $2.5 million.

Since 1986, we have conducted administrative cost reviews in 13 States to examine whether the State is adhering to its approved cost allocation plan. Disallowances in six States total almost $750,000 and pending disallowances total in excess of $4 million.

While we can point to significant progress in meeting some of the goals of the legislation through the reviews and our research and demonstration activities, there are areas that need improvement.

OHDS is using the full range of available statutory program authorities to provide leadership and innovative responses to major issues in child welfare services, foster care and adoption assistance programs.

My complete statement discusses some of the activities undertaken by OHDS over the past several years to address significant problem areas such as the development of family-based services, improved child protective services, improved foster care systems, special needs adoption, training issues, and foster homes and services for boarder babies and drug-addicted infants.

Also, as required by law, we are working to improve data collection on Foster Care and Adoption.

Finally, we intend to initiate compliance reviews of title IV-E State plans. We believe that these reviews will give us and the States the opportunity to examine all the States' policies, laws and regulations pertaining to their foster care, adoption assistance, and child welfare programs.

All of these efforts will help us address the changing needs of children.

I believe that you would all agree that these needs can best be met by strong and vital families. Children thrive when their families are healthy. No social program, however good its intention and design, can substitute for the bonds of a harmonious family relationship. Government policy should consequently seek to nurture and sustain strong families.

In your previous 2 days of hearings, you have heard individual stories of the failure of the foster care adoptive parent system. These are heart-rending stories and we don't doubt their accuracy, but we firmly believe that the system has many success stories as well.

Nevertheless, the Federal-State system must improve its methods of addressing the tragedy of children whose families have been disrupted by seeking to place such children in permanent homes either through reunification or adoption.

These are the goals of Public Law 96–272 and these are the goals of OHDS as well. You can be assured of my personal commitment, and that of my office, to the goals of this legislation and to the welfare of children. We are willing and eager to work with the Congress to achieve these goals.

We would be happy to answer some questions at this time.

Chairman **Miller**. Thank you very much, Ms. Olson, for your testimony.

[The statement of Ms. Olson follows:]

STATEMENT OF SYDNEY OLSON, ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. Chairman, Members of the Committee

Thank you for the opportunity to appear here today. I am accompanied by Joseph Mottola, Deputy Commissioner for the Administration for Children, Youth and Families, and Betty Stewart, Associate Commissioner for the Children's Bureau. I welcome this occasion to detail the progress States have made in improving their foster care and adoption programs and to discuss the Department's role in the administration of these and other programs for the protection of children.

The enactment of Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, made significant changes in the goals, requirements and the administration of programs designed to protect children. P.L. 96-272 created a new Title IV-E of the Social Security Act, Foster Care and Adoption Assistance, and amended Title IV-B, Child Welfare Services, creating numerous programmatic linkages and fiscal incentives between the two programs. This law sought to:

- Prevent unnecessary separation of children from their parents;
- Improve the quality of care and services to children and their families, and
- Encourage the placement of children into permanent homes through reunification with their parents or through adoption.

The Office of Human Development Services (OHDS) embraces these goals. Through the administration of these two programs and other program authorities, and through the targeted use of our research and demonstration resources, we have helped the States to reduce the number of children in foster care and find permanent homes for many children.

While State child welfare programs have many problems to overcome, it is appropriate to note the considerable progress they have made over the last eight years. For example:

- There are fewer children in foster care.

  The total number of children in foster care (both Title IV-E and non-Title IV-E eligible) has decreased from an estimated 502,000 in 1977 to approximately 275,000 at the end of 1985 (the last year for which we have comprehensive data). We understand, however, that the number of children in foster care has increased slightly in the last few years.

- Children are in foster care for shorter periods of time.

  In 1980, the median length of time a child spent in foster care was 27 months. By 1985, it was 18 months, a decrease of 33 percent. Recent data indicate that one-half of children leave foster care within one year and three out of four children leave within two years of placement.

- More children are reunited with their families.

  In 1982, approximately half the children who left foster care were reunited with their families; by 1985, two-thirds were reunited.

- Fewer children are in institutions.

  The number of children placed in institutions has decreased significantly--from 70,280 (or 14 percent of the 502,000 children in foster care) in 1977, to 27,500 (10 percent of 275,000 children) in 1985.

- More children with special needs are adopted.

  In FY 1987, an average of about 31,000 "special needs" children eligible for Title IV-E reimbursement were receiving adoption assistance payments per month. Less than a decade ago, many of these children were considered "unadoptable," and would, in all likelihood, have remained in foster care.

The administrative and programmatic changes required by P.L. 96-272 are complex and comprehensive. They affect Federal and State operations, State and local judicial systems, public and private social services agency personnel, and private citizens--all of which have distinct perspectives and opinions about the way the system works or should work. Despite this diversity, there is broad agreement that substantial progress has been made in meeting the goals of P.L. 96-272.

Although States have made much progress, we recognize that more remains to be done. The problems faced by today's child welfare system are different from those faced in 1980. For example:

- The incidence of child abuse and neglect reported to child protective agencies has increased throughout the country. The incidence of reported child sexual abuse, in particular, has increased at an alarming rate.
- Some experts estimate that 70 percent of children coming into the foster care system have family problems related to substance abuse.
- The children in foster care today tend to be older, more troubled, and have more complex problems.
- Special problems are presented by AIDS and drug addicted infants entering the foster care system.

SHARED RESPONSIBILITY: STATE AND FEDERAL ROLES

The State and Federal governments have distinct but interrelated responsibilities as they pursue their common goal of strengthening American families. States provide foster care, adoption assistance and child welfare services directly to families and children. The Federal Government, by statute, is required to cooperate with States to "establish, extend, and strengthen child welfare services" and to work with States to "jointly develop" state Title IV-B plans for services.

Some of the major responsibilities of the States are to:

- Investigate complaints of child abuse or neglect;
- Respond to requests for family and children's services;
- Provide preventive services;
- Refer children and families to the courts when necessary;
- Remove children from their homes when reasonable efforts to prevent removal are not successful;

- -- Place children in foster care when necessary;
- -- License and supervise foster homes;
- -- Develop and implement case plans and case review systems;
- -- Provide reunification services;
- -- Achieve a permanency plan for each child in foster care;
- -- Properly allocate costs between Federal and State programs;
- -- Properly claim Federal funds; and
- -- Submit reports to Federal agencies as required.

Some of the major responsibilities of the Department of Health and Human Services are to:

- -- Provide financial assistance to States;
- -- Administer Federal-State programs in relation to eligibility for program funds and incentive funds;
- -- Develop regulations and policies;
- -- Plan jointly with States to develop State Child Welfare Service Plans and to improve Federal-State service programs;
- -- Provide research and demonstration leadership in the development of model legislation, innovative service delivery systems, best practices and model programs, training curricula, and methods to address problems of national significance;
- -- Respond to inquiries about and provide guidance to States on compliance with Federal policies/procedures; and
- -- Provide an appeal process for Federal-State disputes.

FINANCIAL ASSISTANCE TO STATES

We have seen Federal spending for foster care and adoption assistance rise dramatically over the last few years.

Title IV-E

Title IV-E of the Social Security Act is an open-ended, entitlement program that provides Federal matching payments to States for eligible children placed in licensed or approved foster homes or child care institutions. It also provides adoption assistance payments to families who adopt eligible children with "special needs." These children include those who are older; physically, emotionally or mentally handicapped; of minority heritage; or members of a sibling group who should be placed together. Funding is also available for administrative and training costs under Title IV-E.

Since FY 1981, Federal spending for foster care under Title IV-E has risen from $382.9 million to an estimated $701.6 million in FY 1987, an 83 percent increase. During that period, Federal spending for maintenance payments rose from $278.4 million to $429.5 million (54.3 percent). The Federal share of administrative costs has gone from $30.2 million to $246.9 million (717 percent).

The adoption assistance program began quite modestly in FY 1981, with Federal spending of less than a $500,000. In FY 1982, the Federal share was $4.7 million (administrative costs of $194,000 and payments of $4.5 million). By FY 1987, adoption assistance payments had risen to $53.4 million and administrative costs to $16.8 million. Total costs for adoption assistance in FY 1987 were $71.6 million.

Title IV-B

Title IV-B, Child Welfare Services, is a formula grant program in which funds are distributed in two different ways:

(1) each State and territory gets a relative share of $141 million; and

(2) each State receives an additional allocation if it meets the incentive requirements under section 427.

In FY 1988, $239 million was appropriated for Title IV-B.

FEDERAL MONITORING AND COMPLIANCE EFFORTS

Given the requirement for verification of State eligibility for section 427 incentive funds and the dramatic increase in State expenditures of the open-ended funds under Title IV-E, the Office of Human Development Services has placed special emphasis on conducting section 427 compliance reviews and instituting Title IV-E fiscal reviews.

Section 427 Reviews

Section 427 reviews verify first that States have implemented administrative policies and procedures to carry out statutory requirements. We verify that the State:

- has conducted the required inventory of all children and made the appropriate determinations for each child, on the necessity for and the goal of the placement as well as the services necessary to achieve that goal;
- has implemented a statewide information system which tracks the status of each child;
- has implemented a case review system which includes a case plan, periodic reviews, and dispositional hearings; and
- has implemented a service program designed to return children to their parents or, if that is not possible, to have them placed for adoption or in another permanent arrangement.

During the actual case record survey, we verify that every child in the sample has a case plan as defined in the law and that it contains each of the nine elements and protections required by section 475.

We look at the court orders to determine that the child has a periodic review every six months, and we establish that the composition of the review panel and the subjects covered in the review are those specified in the law.

We then verify that a dispositional hearing was held within 18 months of the child's placement in foster care and that subsequent dispositional hearings are held on a regular schedule, based on a time period defined by the State.

We also include a verification of the procedural safeguards regarding parental notice and visitation rights.

Currently, all jurisdictions except Massachusetts, Wyoming and Puerto Rico are receiving incentive funds. Each State's eligibility for such funds is reviewed by the Department for the first and second years, and for every third year thereafter in which these funds are received.

From FY 1982 through FY 1987, OHDS conducted 152 section 427 compliance reviews. In all but 25 instances (16 percent), the States met the review criteria. States fail section 427 reviews primarily because of untimely periodic reviews and dispositional hearings.

Each of these section 427 reviews are labor intensive activities. The average section 427 review requires four Federal reviewers and three State reviewers for four to five days, or an average of about 32 person days per review. Thus, the 152 reviews conducted have used in excess of 4800 person work days or approximately 24 person work years. This does not include the preparatory work, setting up the review, or the report drafting and follow-up activities. The States that have failed the reviews have been assessed disallowances totalling approximately $13.4 million.

Title IV-E Fiscal Reviews

We are currently conducting three different types of reviews of the Title IV-E provisions of the law. Since 1984, OHDS has been conducting fiscal reviews of State foster care programs. Reviews of adoption assistance programs began in 1985 and of Title IV-E administrative costs in 1986.

The fiscal reviews of the foster care and adoption assistance programs focus on whether:

- payments are being made by States on behalf of children who are eligible for foster care or for adoption assistance;
- payments are being made to eligible foster homes and institutions which meet licensing standards; and
- payments and payment levels are appropriate.

From FY 1984 until now, we have reviewed the foster care program in 43 States, and have conducted reviews in some of the larger States two or three times. Each stage I foster care review requires about 20 person days of on-site review activity; each stage II review requires an additional 40 person days. Thus, during the four years that we have been conducting Title IV-E foster care reviews, we have dedicated at least 1500 person days or approximately seven and one-half person years. Again, this does not include preparatory work or the time and effort involved in the subsequent analysis and in report development and processing disallowances.

As a result of our Title IV-E Foster Care reviews, disallowances have been assessed against 26 States totaling over $3 million, with pending disallowances totaling in excess of $16 million. Most disallowances are based on the ineligibility of the child: either the child is not AFDC eligible or has not been properly removed from his/her home according to the statutory requirements.

In addition, where special problems or issues arise, we or the Department's Office of the Inspector General will conduct more in-depth reviews. For example, the Inspector General is currently reviewing claims from New York and California--States which have extremely large foster care populations and, therefore, require more extensive time and work to complete the reviews.

Since 1985, we have conducted adoption assistance reviews in 17 States. Disallowances totalling $98,625 have been assessed with pending disallowances in excess of $2.5 million.

Because of the dramatic rise of administrative costs charged to Title IV-E and the great disparity in administrative costs per child among the States, in 1986, we began reviews of State expenditures for administrative costs Under Title IV-E. More recently the HHS Inspector General reported on the explosive increase in administrative costs in a report entitled Foster Care Administrative Costs issued in October 1987. Consistent with the Bipartisan Budget Agreement, we have not however, advanced any legislative proposals to address this issue in FY 1989.

While the foster care and adoption reviews focus on the eligibility of the child, the qualifications of the provider, and the amount of the foster care and adoption assistance payment, the administrative cost reviews examine whether the State is adhering to its approved cost allocation plan.

Since 1986, we have conducted administrative cost reviews in 13 States. Disallowances in six States total almost $750,000 and pending disallowances total in excess of $4 million. These funds are being disallowed because of worker errors in charging Title IV-E costs for non-IV-E children and for charging unallowable social service support activities to Title IV-E. Some of the errors are also based on incorrect formulas and calculations.

As a result of these reviews, we know that States have made changes and improvements:

- in the way they provide the protections and safeguards and in how they monitor their provision;
- in establishing quality control units;
- in revising forms, schedules and agreements, such as the voluntary placement agreement and the adoption assistance agreement; and
- in assuring that periodic reviews cover the required activities, and that case plans address all the required elements.

STRATEGIES FOR IMPROVEMENT

While we can point to significant progress in meeting some of the goals of the legislation, there are important program areas that need improvement. Thus, the Children's Bureau is using the full range of available statutory program authorities to provide leadership and innovative responses to major issues in child welfare services, foster care and adoption assistance.

Boarder Babies

A group of children requiring increased attention are infants who have been abandoned by their mothers, particularly AIDS babies or babies addicted at birth to drugs. The search for appropriate foster family homes or other types of foster care facilities for these children has placed an enormous burden on the child welfare system. In an effort to lend support, we have designated this search as a priority area for the use of our current year's Section 426 research and demonstration funds.

Other Areas of Emphasis

Additional major program initiatives have been undertaken over the past several years to address significant problem areas in child welfare services: (1) the development of family-based services; (2) improved child protective services; (3) improved foster care systems; (4) special needs adoption; and (5) training and professional development.

o Family-Based Services and Pre-Placement Prevention

Although P.L. 96-272 required States to provide services designed to prevent the separation of children from their families, methods for providing family-based services were not widely known at that time. Agency restructuring, extensive training, and the development of supportive community resources were needed.

The Children's Bureau has emphasized prevention, reunification and family-based services, and, as a result, placement prevention programs have been developed and made available nationwide. To cite a few examples:

(1) Since 1983, the University of Iowa's School of Social Work has received funding to operate a National Resource Center on Family-Based Services. The Center collects and develops materials on effective programs and provides training, consultation and technical assistance to States and local communities across the country.

(2) In 1984, the Children's Bureau funded four grants for the development of materials to assist States in interpreting and implementing the legal and service definitions of "reasonable efforts." These resources are now available, and considerable training for judges and social service agency personnel has been conducted at the State and local levels in the implementation of this requirement. A listing of current resources on "reasonable efforts" has been compiled and published in "Children Today."

(3) In addition, nine States and four agencies have received demonstration grants to develop family-based preventive services. Two research projects were also funded to evaluate the effectiveness of these preventive services.

(4) To encourage utilization of available resources, materials and exemplary program models for pre-placement prevention and reunification services, HDS identified several successful projects which could be replicated by States and local communities including Family-Centered Social Services for Child Welfare Agencies, Homebuilders, and the Maryland Model of Placement Prevention. Several grants to support these replication efforts will be funded in FY 1988.

- Child Protective Services

  Since maltreatment is the leading cause of entry into the foster care system, we have initiated a variety of activities targeted at several aspects of the prevention of child abuse and neglect.

  (1) In FY 1986, the National Center for Child Abuse and Neglect funded 17 projects addressing alternate treatment approaches to casework counseling, including use of paraprofessionals, home visitors and a variety of other community-based supports for neglecting families. In addition, special emphasis was placed on high risk or medically fragile infants and young children, believing that they were at special risk of abuse or neglect.

  (2) With the recent rise in reports of child sexual abuse, several million dollars has been focused on prevention in this area. Child sexual abuse curricula, appropriate for preschool, elementary and high school students, are nearing completion. In addition, support has been provided for the development of public awareness materials, and 17 demonstration projects have been conducted around the country to train school personnel and students of all ages in child sexual abuse awareness and prevention.

  (3) Major emphasis has also been placed on increasing the involvement of volunteers in child abuse prevention and intervention. Support has been provided for the establishment of 35 court appointed special advocacy (CASA) programs around the country in the past two years. CASAs advocate for abused and neglected children involved in court action. Other volunteers serve as parent aides or provide respite care.

  (4) Because of the legal and jurisdictional complexity of out-of-home child abuse and child sexual abuse cases, 13 grants have been awarded to States and communities to develop a coordinated response which involves the State child protective services agency, law enforcement, mental health personnel and the judicial system.

  (5) Nine grants were funded jointly in FY 1987 by the Family and Youth Services Bureau and the National Center on Child Abuse and Neglect to support mediation projects focused on innovative prevention and intervention strategies to treat adolescent neglect and families at risk of abuse and neglect.

- Foster Care System Improvements

  Because children in foster care and their families constitute the largest segment of the child welfare system, the Children's Bureau recognized that specific improvements in the foster care system could contribute significantly to improving child welfare services nationwide. Using the Office of Human

Development Services' Coordinated Discretionary Funds Program (CDP), the Bureau identified and developed several priority areas for funding and awarded grants designed to stimulate improvements in the foster care and child welfare systems. These included projects focused on specialized family foster care; mental health and other supportive services for children in the child welfare system; recruitment and retention of family foster homes; strengthening State licensing programs; and other projects developed under the child welfare services' training grant priorities.

(1) A National Resource Center on Foster and Residential Care was established in 1986 in Atlanta, Georgia. The Center has developed extensive curricula for training foster parents, agency social services staff and residential child care staff and has used these materials in training throughout the country.

(2) To support collaborative efforts between community mental health services and child welfare services to develop and expand specialized treatment skills and resources for children in foster care, OHDS will fund several projects in FY 1988 to demonstrate interagency coordination and improved mental health services to child welfare clients.

o Special Needs Adoption Initiatives

(1) Over the past 5 1/2 years the Children's Bureau has carried out a national initiative to promote the adoption of special needs children. Until recently, many of these children were considered unadoptable because of mental and physical disabilities, emotional disturbances, or because of age, race, or ethnicity. Through Adoption Opportunities grants, we have supported the replication of successful adoptive parent recruitment and placement models such as "Wednesday's Child," "One Church, One Child," and "Friends of Black Children."

(2) Assistance has also been provided to States to improve their adoption processes and to enable State adoption specialists to link, through telecommunications, with each other, with agencies serving the developmental disabilities population, and with the National Adoption Exchange. We expect that this link will broaden the access of adoption agencies to prospective adoptive parents so that waiting children may be placed more quickly.

(3) The most critical current issue in special needs adoption is post-adoption services. During the past years, the field has become fairly successful at placing special needs children with families, but further support is needed to assist some families to maintain these placements. For example, mental health services are generally not available to meet the needs of adoptive children and families requiring such services. In 1984, a project on post-adoption services was funded to train mental health professionals to work with adopted children and families. This project was very successful, and funds were granted the following year for program expansion. Subsequently, eight more projects have been funded, and we intend to support other post adoption service grants in FY 1988.

- Training and Professional Development

  The need for adequately trained and skilled staff is crucial to the delivery of high quality, cost-effective public child welfare services. This is particularly true as the child welfare field increasingly is involved with an older, more handicapped and more a troubled population of children and their families. Yet, the most recently available data (1987) indicate that the vast majority of individuals employed in public child welfare lack the professional preparation which would equip them to perform this demanding work. For example, only 28 percent have a bachelor's degree or higher in social work.

(1) The Office of Human Development Services has worked with leaders in the field to expand the number of professionally trained and qualified individuals who have a commitment to provide services in the public child welfare sector. As a result, we have revised the FY 1987 Child Welfare Training Grant Program to provide increased opportunities for agencies to collaborate on specific objectives with schools of social work and professional associations involved in public child welfare.

(2) Recognizing the increasing need for multidisciplinary services in child abuse and neglect, we are funding ten university-based interdisciplinary child abuse and neglect training programs around the country which will provide graduate and post-graduate level training for professionals in a variety of disciplines who will specialize in child abuse treatment.

(3) In an effort to address State inservice training needs, we have funded 10 national child welfare resource centers to provide consultation, training and technical assistance to community and State child welfare agencies.

Data Collection

We recognize the need for better data collection regarding children in foster care. As required by law, the Secretary established the Advisory Committee on Adoption and Foster Care Information. The Committee submitted its report to the Congress and the Secretary on October 1, 1987, as required. The Department is currently reviewing the Committee's recommendations, and is developing the Department's report to Congress due July 1, 1988.

Title IV-E State Plan Compliance Reviews

We also intend to initiate compliance reviews of Title IV-E State plans. We believe that these reviews will give us and the States the opportunity to examine all the States' policies, laws and regulations pertaining to their foster care, adoption assistance, and child welfare programs. We have developed a new State plan pre-print for Title IV-E which is now ready for Departmental and OMB clearance and will be used as the basis for these reviews.

All of these efforts will help us address the changing needs of children. Obviously, these needs can best be met by strong and vital families. Children thrive when their families are healthy. No social program, however good its intention and design, can substitute for the bonds of a harmonious family relationship. Government policy should consequently seek to nurture and sustain strong families.

Nevertheless, it must also address the tragedy of children whose families have been disrupted by seeking to place such children in permanent homes either through reunification or adoption. These are the goals of P.L. 96-272 and these are the goals of OHDS as well. You can be assured of my personal commitment, and that of my office, to the goals of this legislation and to the welfare of children. We are willing and eager to work with the Congress to achieve these goals.

Chairman MILLER. Can you tell us how many children are in foster care today?

Ms. OLSON. There are 275,000 children in foster care today.

Chairman MILLER. So it has not changed since 1985?

Ms. OLSON. Excuse me, 108,000 in title IV-E foster care in 1987.

Chairman MILLER. 108,000?

Ms. OLSON. Yes, IV-E foster children.

Chairman MILLER. From 1985 you went from 275,000 to 108,000?

Mr. MOTTOLA. Mr. Chairman, the number that Ms. Olson referred to was the 1985 figure for children in foster care under State supervision, including IV-E. That was 275,000.

In the testimony there is a recognition by the administration that the number has gone up. We do not know the total number in foster care right now, but we know that it has gradually been increasing since 1985.

Chairman MILLER. On page 2 of your testimony you say that it decreased from 502,000 in 1977 to approximately 275,000 at the end of 1985. What is that figure now? What is the corresponding figure today?

Mr. MOTTOLA. We do not have a figure that would represent an accurate count today. These figures are derived through voluntary cooperative information systems.

We are working under the new provisions of the law to develop a new information system for foster care and adoption, and we fully expect to meet all of the deadlines that are required. But today there is no comprehensive——

Chairman MILLER. The answer is, you don't know how many children are in foster care?

Mr. MOTTOLA. That is correct. But we know what it was in 1985 and we know that it has gone up in small numbers since that time.

Chairman MILLER. How do you know that it has gone up in small numbers?

Mr. MOTTOLA. Anecdotally, from information that we get from time to time through various studies. We know that some States have gone down and are still down. We know other States have gone up and stayed up, but we do not have an accurate figure.

Chairman MILLER. Last year in testimony before the Select Committee, Ms. Burnley, who had your job at that time, used exactly the same expressions that you have here today, and that was that some States are increasing and some decreasing, and she said they were very concerned about this.

She told us about a dramatic increase in child abuse reports. What have you done to respond to that concern?

Mr. MOTTOLA. We believe we are taking the course that Congress intended us to take, that is to go through a thoughtful process of establishing an information system with the States that will provide an accurate count of all children under State supervision, and that is——

Chairman MILLER. You have had 8 years to do that.

Mr. MOTTOLA. Yes, but the device chosen in the first set of years, when there was an administration proposal to do something else with this program, the voluntary cooperative information system is what we use today.

Chairman Miller. So 8 years later we don't know how many kids are in the system?

Ms. Olson. I don't think that is fair—we don't know exactly. We cannot tell you exactly how many there are, but we know how many there were in 1985. We know how many in 1988 are in title IV-E foster care. That number has been going up slightly each year, and therefore we are making the assumption that the numbers in general foster care are also going up slightly. But that is after a dip.

Chairman Miller. When are you going to be able to tell the Congress how many children are in foster care? If you read the history of this act, somebody sitting in your place many years ago told Congress how many children were in the system and that brought about Public Law 96-272. When will you be able to tell the Congress how many are in the system?

Ms. Olson. We have an advisory task force on foster care adoption——

Chairman Miller. When are you going to report this information to Congress?

Ms. Olson. We will report to Congress on July 1 on the results of that report, and by the end of December 1988, we will make recommendations to Congress or publish proposed regulations for a data collection system.

Chairman Miller. So, during this administration, you won't be able to tell us?

Ms. Olson. Not any more accurately than Mr. Mottola has this morning.

Chairman Miller. Which was 1985?

Ms. Olson. That is right.

Chairman Miller. In your discussion of section 427 reviews, you said that DNNS has conducted the required inventory of all children, made appropriate determinations that the States have done this and that you verify that the States have done this; is that correct?

Ms. Olson. That is correct.

Chairman Miller. During the actual case record survey, do you verify that every child in the sample has a case plan as defined by the law and that it contains nine elements of protections required by section 475?

Ms. Olson. That is right.

Chairman Miller. And you verify that a dispositional hearing was held within 18 months of the child's placement in foster care? How do you do that?

Ms. Olson. We send reviewers to the State to work with the State reviewers who look through a sample of the plans and verify those protections are in place for a rising number of the cases sampled. The first year, 66 percent, second year, 80 percent, and by the fifth year, 90 percent of the cases have to follow the protections in the law.

Chairman Miller. How do you verify that?

Ms. Olson. I will ask Joe to respond to that. It takes a serious amount of time on our part and expenditures as we detail in our written statement.

Mr. MOTTOLA. We verify this by going through the case record. We ask the State to draw a sample of all of the cases that are in their section 427 counts; namely all the children in foster care under State supervision. Then we draw the sample and it is roughly between 150 and 200 cases, and the reviewers, both State and Federal, conduct an onsite review going through the case record material with a check list that enables the reviewer to record data for each of the protections that are afforded under the law.

Chairman MILLER. Does the reviewer look behind the case file?

Mr. MOTTOLA. Unfortunately, Mr. Chairman, the reviewers can only look at the case file in this. What we have tried to do over the years——

Chairman MILLER. Why is that?

Mr. MOTTOLA. Because it is a new law. It is 8 years old, but in terms of legal mandates on what to do with children in foster care——

Chairman MILLER. This administration needs a third term at the rate you are going.

Mr. MOTTOLA. We start from the premise that the law represented some very fundamental changes in the child welfare system, and that those changes had to be driven home in a very real way. So we have started by concentrating specifically on the protections that are afforded in the law. Those are the items that are reviewed by a check list——

Chairman MILLER. Do you understand the history of this law?

Mr. MOTTOLA. I have some awareness of the history of the law.

Chairman MILLER. It is almost exactly the opposite of what you testified. This wasn't a question of the Federal Government designing the system and imposing it on the States.

By the time this was signed into law, the majority of States had moved to provide services and changed their State statutes to accommodate this law because they knew that if they tried to accommodate the law they were going to be eligible for some money. It wasn't perfect, not all States did it.

In fact, the services that you are talking about that are so new and innovative were drawn from the Nashville pilot program funded partially by the Federal Government to design these services in 1970. That program showed that if you did it correctly you could dramatically decrease the number of children entering foster care. In the case of the Nashville program, I believe almost all toddlers and infants were removed from that system.

So there is nothing revolutionary about this. You are telling me now that you go into a State, you look at a case file, and you have a check list. If all the boxes are checked properly, that case passes muster. You don't talk to the judge; you don't talk to the case worker, and I guess you don't talk to the child or the family.

Mr. MOTTOLA. That is correct.

Chairman MILLER. So if preplacement services is checked, it is assumed it was done, correct?

Mr. MOTTOLA. The check list would not require preplacement services. Those are only for——

Chairman MILLER. Reasonable effort was checked.

Mr. MOTTOLA. Reasonable effort is only required for title IV–E eligible children.

Chairman **Miller**. Do you look at that?

Mr. **Mottola**. We do when we do our title IV-E reviews, yes, sir.

Chairman **Miller**. How do you verify those?

Mr. **Mottola**. We can only take——

Chairman **Miller**. You mean you only do——

Mr. **Mottola**. We only do because we are trying to provide oversight for 50 States, 55 *jurisdictions*. We are limited in resources as the States are limited in resources.

We are trying to look systematically at State practices to see if they have in fact done what the law requires them to do. So we take what we consider to be scientific samples and go through a fairly rigorous process of identifying what needs to be done and try to use the best information at hand to determine whether or not the State has done it. And we——

Chairman **Miller**. Ms. Olson, are you familiar with the Louisiana case?

Ms. **Olson**. I am not.

Chairman **Miller**. In 1983, Louisiana failed its audit. Only a third of the children entering foster care were receiving any preventative services prior to placement. In one fourth of all the cases in which the children were in placement, needs were identified for which there were no resources available.

In one third of the cases of the children in placement, court ordered services were not provided. Fifty percent of the children in foster care have been there more than 24 months and a third more than 3 years.

Plaintiffs in a Louisiana lawsuit have been in foster care for the following period of time: 9 years, a boy 5 years old when he entered the system; 7 years, a brother and sister, ages 5 and 7 when they entered the system; 6 years, sisters 2 and 3 when they entered the system. Fifty percent of the children in institutions were there unnecessarily.

One third of the children in foster care had not had any physical examination in 12 months. In one half of the cases, foster care workers did not visit the children as required by State law.

What have you done about that since they failed that? Have you been back to Louisiana?

Ms. **Olson**. I would have to ask Betty Stewart or Joe Mottola.

Chairman **Miller**. What do you do in this Department?

Ms. **Olson**. I am in charge of Development Services. I oversee four administrations.

Chairman **Miller**. Do you ever look at this system?

Ms. **Olson**. I do. It appears to me that we are doing an adequate job. It is not an exceptional job, but I think within the requirements of the law and the resources, we have made improvements.

I am sure if that situation occurred in Louisiana, I would assume that the State was disallowed the expenditures for that year, and that we went back in and audited very carefully the next year.

Chairman **Miller**. Was that the case, Mr. Mottola?

Mr. **Mottola**. It is the case, to my knowledge.

Chairman **Miller**. You have collected those disallowed funds?

Mr. **Mottola**. I can't say that we collected them. I know that we disallowed the money. Sometimes those cases go to a Grant Appeals Board. I don't recall what the disposition was.

Generally, we win the cases before the Grant Appeals Board. That was for 1983, section 427 review. There was a review done for 1984 which was a redo of what we call the initial review, because Louisiana failed the first one, and the State passed.

Chairman MILLER. Did you use the same process you used in 1983?

Mr. MOTTOLA. As far as I know. I wasn't there at the time. As far as I know, I think our process has been fairly consistent.

Chairman MILLER. Ms. Olson, are you familiar with New Mexico?

Ms. OLSON. I am not.

Chairman MILLER. They passed an HHS audit. No children in State custody have plans containing the elements required by Public Law 96-272. Fifty-five percent of kids eligible for adoption have never been referred to an adoption unit. Six-month reviews don't occur as required in 25 percent of the cases, and the State doesn't maintain reliable data on occurrence of the 18-month judicial review.

You just passed this State. How can that be?

Ms. OLSON. I would assume if it reached their percentage of passing in the other cases.

Chairman MILLER. Have you gone back in since you have heard about this case to protect these children?

Ms. OLSON. I would have to ask Mr. Mottola to answer that.

Mr. MOTTOLA. We have not gone back in. My notes here indicate that the decision on the 1986 427 review for New Mexico is pending.

Ms. STEWART. We have not officially passed New Mexico.

Chairman MILLER. What are you doing with New Mexico?

Ms. STEWART. The decision about New Mexico's 427 review is pending at the present time.

Chairman MILLER. Are you going back to relook at it? Statistically, they have passed. You have got a slight problem if somebody is in court that shows that your sample is not terribly good.

Ms. STEWART. I would like to say that we have had no reason to believe that our sample is not appropriately drawn. Our samples have not been questioned. Our decisions generally have been upheld by the Grant Appeals Board.

Chairman MILLER. Your sample will reflect what I have just read to you about New Mexico as a result of that court case? New Mexico is in court on contempt of their court ordered decree. And they can still pass our HHS audit?

Did you ever think that maybe the audit is not working?

Ms. STEWART. I can't speak to your statistics.

Chairman MILLER. Are you aware of it?

Ms. STEWART. Yes. We have no reason to believe our sampling method isn't an effective method.

Chairman MILLER. You have no reason to believe your sampling method isn't effective when it doesn't contain any reliable data on 18-month judicial reviews. That review is a key component of this law; a requirement in order to obtain Federal moneys. A 6-month review doesn't occur in 25 percent of the cases in New Mexico, and you are telling me that you have faith in your review plan?

Let's go to Kansas City. It is the same horror story. Twenty-five percent of the children in foster homes were subject to abuse. But you didn't pick that up by checking the boxes, did you? Have you ever talked to the advocates and to attorneys about whether or not the cases that you check would give you an accurate picture of what is going on in the State?

Did you send anybody up to listen to the testimony before this committee over the last two hearings?

Mr. MOTTOLA. I was here for the last hearing, yes.

Chairman MILLER. Did you hear people talk about the fact that boxes had been checked but no reasonable effort has been made, and that it makes no difference at the State level?

Mr. MOTTOLA. I heard testimony to the effect that boxes were simply checked and to some extent, that is correct.

Chairman MILLER. Doesn't that unnerve you when all you are doing is checking to see whether the boxes have been checked?

Mr. MOTTOLA. We share the concern that the reviews done do not always adequately check all of the requirements of the law.

Chairman MILLER. But you follow along in the same footprints.

Mr. MOTTOLA. Mr. Chairman, this is a very complex law.

Chairman MILLER. No, it is not.

Mr. MOTTOLA. It is in many respects.

Chairman MILLER. What is complex about it?

Mr. MOTTOLA. There are fundamental changes——

Chairman MILLER. That is right, because there was a scandal.

Mr. MOTTOLA. We disagree on the fundamental——

Chairman MILLER. No, we don't. What is so complex that you can't enforce?

Mr. MOTTOLA. What is new is the requirements of the law.

Chairman MILLER. It is 8 years old.

Mr. MOTTOLA. It is 8 years old, but it also required a number of very systemic changes in State practices which yes, States had in many cases begun, but they were not required to begin those changes as a result of the law until 1980. And our reviews have concentrated on, up to this point, on the systemic changes that were required.

Chairman MILLER. How did the States tell you that they were going to comply with Public Law 96-272? This law came into effect more or less on your watch. What did you ask the States to do in order to comply with the law?

Mr. MOTTOLA. We asked the States to meet the requirements of the law basically, and that——

Chairman MILLER. What did the States do?

Mr. MOTTOLA. By using good practice that had been developed prior to the implementation of Public Law 96-272 as the States—some of the States were the leaders in developing some of the practices.

Chairman MILLER. So, the States agreed to self-certify. They said, we are going to obey the law?

Mr. MOTTOLA. Yes, it is self-certification——

Chairman MILLER. The States had a self-certification process?

Mr. MOTTOLA. Yes. Our requirement was to validate, to the extent that we could that the States' self-certification——

Chairman MILLER. That is the process you describe when you take a case file at face value even though children are dying in the system, even though children are being abused in the system, and even though children are being murdered in the system. Despite that, you continue to believe that the jacket on that child is accurate?

Mr. **Mottola**. We don't necessarily believe all the jackets are accurate. We feel that it is the best information that we have that we can use in an objective way to test what is happening.

Chairman **Miller**. How can that be true if all the court documents suggest that that is in no way an accurate reflection? We are talking about cases from 1983, 1984, 1985, 1986, and yet you continue to believe that if you send some people into the field and they check the boxes, that somehow that gives you a more accurate picture?

Mr. **Mottola**. We feel that it is the most accurate picture that we have been able to get up to this time. We agree that the 427 review process needs to put more effort on services.

Chairman **Miller**. If it is the most accurate, why does it need more effort?

Mr. **Mottola**. Because it is all we have been able to do up to this point.

Chairman **Miller**. In 1980, you had regulations issued that told the States exactly what to do. You pulled those regulations back. What you did then was to ask the States to self-certify. You then created a checklist. Even in your testimony, you tell me you have a new checklist with new boxes, so it will go faster. The evidence we have is that children are being abused beyond our wildest expectations, that millions of dollars are being misspent, and you have already disallowed something like $815 million. Yet, you have no sense of urgency about changing the system by which you audit this one.

It is the best system you can come up with. I really question whether you should be running this Department, because that system is allowing hundreds of thousands of kids to live out lives in despair because they don't have permanency, they don't have services, and they can't get back to their families.

That is the system that you are running. That is the system that you condone. That is the system you are happy with? You have done the best you can, is that your testimony, Ms. Olson? This is the best you can do?

Ms. **Olson**. Congressman, I think that the Department has done a good job. More needs to be done.

Chairman **Miller**. Let's go to Louisville, Kentucky then. Fifty-five percent of the children in foster care—only 55 percent of the children in foster care received their plan on time. You want to go to New York City? Well over 450 children had 10 or more placements, and many children have had over 20. A 4-year-old had 18 placements in April and 19 in June, all boxes were checked.

You have done a good job. What you are really engaged in is State-sponsored child abuse. You have taken children from an abusive situation in a family, yet you are operating a system allowing them to continue to be abused.

Look at Maryland. In 1987, children placed in unlicensed facilities. Do you want to look at Chicago or Portland? These are all States that have passed your reviews.

Mrs. Kennelly.

Mrs. KENNELLY. Thank you, Mr. Chairman.

How many States have had disallowances? Or maybe better, how many States are in disallowance now?

Ms. OLSON. There are 25 pending, and $13.4 million have been assessed through the disallowances.

Mrs. KENNELLY. I am very pleased we are having this hearing at this time, because I have recently been informed that the State of Connecticut is having problems with its audit. It has just been brought to my attention, and we may lose $1.5 million due to technical violations.

We have been told by those that were doing the reviewing, that Connecticut has sound and quality casework procedures, but technically we have problems. Would you reassure me that we can work together on this situation since we have you right here—because, of course, I am disturbed.

However, I am not quite as disturbed as I might be having been at these hearings and reading the testimony that we have had over the past several weeks, because I think what is happening and what we are hearing and reading from the testimony and what is happening in Connecticut, I think we have to look more carefully at what we are reviewing.

I say that because I have recently found out about Connecticut, but Connecticut, Massachusetts, New Hampshire and Vermont were found out of compliance in 1987. I don't want to sound parochial and say I think we have been doing a good job in Connecticut, but I know Massachusetts has and Vermont has a good record, yet we are out of compliance for technical reasons. I am aware that Massachusetts has said that they think they are going to withdraw from the program, because it is not worth the time and the effort they would have to take away from doing the foster care per se to be in compliance, so they are going to say forget it.

Is there maybe a possibility when four out of six States in the Northeast are out of compliance for technical reasons that this indicates there may be a problem with reviews?

I want to work with you on this, but on this committee, we have spent more time, more taxpayers' dollars on error rates in the welfare system. Sometimes what happens in bureaucracy is we get so involved with the technicalities that we lose all that we are supposed to be doing.

I am asking to work on that. For the record, has the administration for Children, Youth and Families ever held a State-sponsored retroactive compliance for any requirements when this has happened?

Mr. MOTTOLA. I am not sure I understand the question.

Mrs. KENNELLY. What happened, I guess, is that Connecticut used a 90-percent compliance standard for 1985, and you got those figures which were not published until January 1985. My State feels you changed the rules in the middle of the game, they didn't know what the rules were, so they couldn't comply with them, and they are being penalized.

You don't do the regs anymore—has anybody been penalized in a retroactive fashion up to now?

Ms. OLSON. Disallowances are always taken after the fact. If you consider that retroactive penalization——

Mrs. KENNELLY. If I didn't know I was doing something wrong, I would.

Ms. OLSON. The cases in which Connecticut failed, as I understand it, were held to the 90-percent standard consistent with the triennial review, based on timeliness of the dispositional hearing and periodic reviews which are basic parts of the law in which every State has known that they must comply with an increasing rate from the first year of the program's implementation.

So, I don't believe that Connecticut—and I am certain Mr. Mottola is more familiar with the case—but I think Connecticut could not claim to be ignorant of those basic requirements of the law.

Mrs. KENNELLY. I have a difference of opinion, but I request that we work together on this, and our Deputy Commissioner is here, and we have attorneys and will be in contact.

Let's move from this and let me ask you a question. George talks about the boxes and we all know this is a huge system and this is a problem that you can have bureaucracy overtake what you wanted to do originally in legislation; but how does your agency measure the quality of care children receive in foster homes?

We have heard people being very negative about the system. How would you portray the manner in which we look at the quality of care that a child gets in the system?

Ms. OLSON. Beyond the reviews which occur, our regional office staff, who are expert in the law, spend a lot of time with the States, with the local agencies in the planning process, in trying to work with them to improve their systems.

We have, through our research and demonstration funding, funded a lot of projects which are disseminated throughout the system to provide States and the local governments with the best practices available and to show them how best to provide services.

I would like to ask Ms. Stewart for a few more details on our research and demonstration projects and our training efforts.

Ms. STEWART. If I could say something about the quality issue first. I think that for us at this level to try to evaluate quality of individual programs throughout the country, which differ greatly from State to State and even county to county, Congressman Miller spoke about particular locations in States, and so you may have pockets of excellence or pockets of unexcellence, and to make those kinds of judgments from the Federal level, I think, is extremely difficult.

Therefore, what we have tried to do is to look to see whether or not the basic protections of the law are in place for children, which we believe have made a great difference in the system. I would just like to say that from my perspective as a former practitioner in the child welfare system, that Public Law 96-272 has made a significant difference in the lives of children in the foster care system.

Children who have come into the system are likely to stay for shorter periods of time, there are fewer young children coming into the system and growing up in foster care; and the fact that the States are required to have periodic reviews, to have case plans in place and to look at these children on a regular basis is extremely important in protecting their rights in foster care.

From that perspective, I think that a great deal has happened. I also feel that the individual States have responsibility for the kind of system that they have in place and for the kind of responsibility that they feel for their children and families who come into the system. It has to be joint effort between the Federal Government and the State and local communities if it is going to work to protect the children.

From the perspective of the Children's Bureau, in addition to our responsibilities for Public Law 96-272, we have attempted through our discretionary programs to develop models which can be used around the country effectively to reduce the number of children coming into care.

We have a family-based resource center, a national resource center located in Iowa that has played a major role for us and for States and communities in disseminating and teaching about how to prevent foster care and what kind of services to provide to families in crisis to prevent children from coming into foster care.

We have a number of other efforts relating to social work training, to collaboration between the mental health system and the child welfare system to improve services for children in the system and other similar kinds of programs.

Mrs. KENNELLY. I hear what you are saying, and I understand it is very hard to have a hands-on ability when you are in Washington, D.C., and yet the book is full of statistics and facts and figures that show us that we have serious problems with the foster care system.

Do you feel with all your experience in the administration that you have enough ability to really know beyond the paperwork that something is or is not happening or is that something we should be looking at here that we don't know? Do you think as the system is set up, as you know the system today and you could go down the list on the checks and the balances, does it work, is that child being protected, is there enough ability to see the child?

Is the child being seen, or is it all paper?

Ms. STEWART. I don't think it is all paper, but I think that the child welfare system which is a very old one has always struggled with this problem.

How do you have a system in place that meets overall needs and yet, at the same time, responds to the individual child and makes sure that that child is receiving the best supports that are needed to maximize his potential?

This is not a new issue. What I have trouble with from my perspective is the notion that the Federal Government should go into individual situations and make judgments about individual cases as to the quality of that particular case.

We receive letters all the time from individuals asking us to address certain concerns that they have about the system. It seems to me that the Federal Government has an oversight responsibility, but the States and the local communities are much closer to the child and family and have the direct responsibility for seeing that those individual services are provided.

Mrs. KENNELLY. Let me ask you, since we have problems, would it help if you did once again publish the regulations in the Register? Wouldn't that do away with some of this misunderstanding we have and give you more time to do some of the things that you say maybe we could do better?

Ms. **Stewart**. This is a very specific law in terms of the requirements, and I think we have given a great deal of information to States about the expectations. Many States now have either passed or will soon be passing their triennial review, which means that we will have a longer period of time, 3 years between reviews, and what we are looking at is ways in which we can work with the States differently during that interim period, not to evaluate individual case situations but to assist the States in improving their programs.

Mrs. **Kennelly**. Which in fact would end up evaluating those cases, I would hope? Somehow we have got to get to the child?

Ms. **Stewart**. The child comes first, right.

Mrs. **Kennelly**. I look forward to working with you to straighten out our own problem.

Thank you, Mr. Chairman.

Acting Chairman **Downey**. Mr. Coats.

Mr. **Coats**. Thank you, Mr. Chairman.

I apologize that I will not be able to be here for all of this hearing. We have a markup in Energy and Commerce.

I am aware that through this series of three hearings, a number of troubling questions have been raised, not all of which we have satisfactory answers for. I do believe that witnesses here this morning are sincere people trying to do the same thing that we on the committee are trying to do: to provide the best possible oversight and service to young children in need that we can.

Yet, there are some troubling things out there that I think need to be addressed. I think you would also acknowledge that. I don't think it is a lack of sincerity on your part. I don't know whether it is a lack of resources or commitment on another level of government, but I hope we can work together to resolve these questions because there are children out there that ought to be served in the best way possible.

I notice we have a vote on. Let me just ask a couple of questions about allocation of your staff time and travel resources in terms of your reviews, specifically title IV-E physical reviews and section 427 reviews.

How is travel time and staff time allocated to perform these reviews? Maybe that will shed a little light on what more needs to be done.

Mr. **Mottola**. Mr. Coats, we allocate resources as best we can based on the reviews that we determine need to be done. We do not do in any given year all the reviews that may need to be done. We do have a limitation on resources, and the States in fact have a limitation on how much tolerance they have for us being in there.

We also have to make sure that we can schedule things——

Mr. **Coats**. Can you give us specifics?

Mr. **Mottola**. Yes, sir. Take a section 427 review, because that is what we have been talking about. Those reviews are again based on a State's readiness to be reviewed and on a schedule that we have established. We have by and large met the schedule with some exceptions. In the average case, we have four Federal reviewers taking 4 or 5 days and we will have State reviewers if the State so chooses.

Mr. Coats. In your opinion, is that adequate allocation of staff time?

Mr. Mottola. It is adequate in terms of the kind of review that we do.

What Commissioner Stewart was alluding to was the difficulty in moving to a different kind of review. If the bottom line is a judgment on the quality of service, then it is a totally different kind of situation.

Mr. Coats. Do you think that is what the bottom line ought to be?

Mr. Mottola. We don't think that it is an appropriate role for the Federal Government to take on based on the considerations that Commissioner Stewart brought out.

Mr. Coats. So it is not necessarily a consideration of whether or not resources are available to do that; it is a determination on your part about what your role should be in terms of carrying out these reviews?

Mr. Mottola. That is correct. We would like to take a better look at the provision of services than we do now.

Mr. Coats. Doesn't the law authorize or mandate you to do that?

Mr. Mottola. I believe the law mandates the States to do that, and we are supposed to provide oversight, and we have tried to provide oversight in the best way that we can. It may not be totally adequate.

As Commissioner Stewart indicated, we are changing our approach so that in the period between triennial reviews we can concentrate more on technical assistance and looking at the adequacy of the program.

When we get down to the case level, that is where we have difficulty in trying to measure the quality of service, because that is something we don't think we are able to do.

Ms. Stewart. I want to comment about travel resources in the Children's Bureau. The conduct of section 427 reviews is our No. 1 priority and if we have to make choices based on the amount of travel money we have available, that is where we put our money first.

Mr. Coats. I asked the question because it gets at the earlier answers Ms. Olson alluded to about getting to the site to see the children and see what the impact is, rather than processing paper, which obviously is more cost efficient but doesn't necessarily get you the answer that you need. A site visit, interview, discussion, viewing for yourself what the situation is, may bring you to an entirely different conclusion than a mere paper process would.

And I guess my ultimate question is, do you believe that that is the kind of review you ought to be conducting? Do you feel that you are authorized to do that kind of review, and do you have the resources to do it?

Ms. Stewart. I guess I am not really sure. I am not really sure whether we would be authorized to do that kind of review. I think that it is more appropriate for us to be putting our energies into working with the States or with individual States to assist them in improving their programs.

Mr. Coats. What if you conclude that the States are not doing the job or you have reason to believe they are not doing the job;

where do you go at that point? How do you validate that allegation or invalidate that allegation without going there and seeing for yourself?

Acting Chairman DOWNEY. Would the gentleman yield?

Could you tell us some of the States that you have been working with and what the impact has been—you responded by saying that you believe it is your job to work with the States. Which ones have you worked with and what has the impact been on the States that you have worked with?

Ms. STEWART. Because more States have had or will soon be having their triennial reviews, we will not be doing the same number of section 427 reviews as we have had over the past 5 years.

Therefore, we want to focus our efforts in the period after the States pass their triennial review to work with the States to assist them in improving their programs. Our regional staff now works with the States on a regular basis. We will be having a meeting, for example, in a couple of weeks in Philadelphia with the States that are in region 3. The meeting will be conducted by regional staff and with at least one member of our Federal Staff attending to assist those States in developing their plans for the coming years and addressing some of the problems they are concerned about. This region includes Pennsylvania, which has two large cities with serious problems in their system, Maryland, the District of Columbia and others.

Acting Chairman DOWNEY. When States fail an audit, then what do you do to help them correct the problems that you have found specifically when they have failed an audit?

Ms. STEWART. It depends on whether a State fails a section 427 review and whether that failure is based on the lack of timely case reviews or dispositional hearings or other factors. Our regional staff would attempt to work with the State during the interim period to help the State get a system in place that would provide——

Acting Chairman DOWNEY. What does the regional staff do? Give me an example of what they do and when they have done it recently. When somebody fails an audit—give me a State that has failed an audit and where the regional staff has gone to the State and what they have done in the State specifically.

Ms. STEWART. I will be glad to make that information available.

Acting Chairman DOWNEY. Why can't you tell me now? Your office has known about this hearing for how many weeks? This is a program you have conducted for 8 years. That is a simple question, when a State fails an audit, what do you do, and tell me the States that you have helped at the regional level. That is a simple question.

Can either of the three of you provide an answer to that question or is it the response "I will provide it for the record," which is the euphemism for I don't know.

Ms. OLSON. In the Chicago regional office, Federal staff have gone to Michigan. They have worked with the Michigan State administrators, told them where their problems are, and advised them on how to clear up the problems. That is the sort of consultation that we do on a regular basis with States, whether or not they are in compliance.

When we allocate our travel money and resources we look at all of our various programs, most of which require onsite reviews or reviews of State or county programs, including Head Start, Administration on Aging, and Administration on Native Americans programs.

Once we have made our allocations to the various administrations and to the regional offices, they get together and plan what site reviews they want to conduct that year. Sometimes we have to make decisions and eliminate reviews based upon the amount of travel money we have for a particular fiscal year.

Mr. COATS. I know we have a vote and are getting close to the end. I will suspend any further questions.

Acting Chairman DOWNEY. Okay. First of all, I want to apologize to the Administration witnesses for appearing so late. It was not by choice, I can assure you.

Sydney, let me say it is good to see you across the table, if in another guise. I have read your testimony. I share Mr. Miller's concern that this is a system out of control. The thrust of your testimony seems to suggest to me things were fine.

I would hate to see a really bad system if this is what you think is fine. I have attempted to divide my concern not only for the children, which I am sure is a concern you share, but also for the taxpayers. Because I think we have uniquely managed to figure out in the 1980 law how we can screw both of them effectively. Both have received a precision shafting.

There are too many children who are not being cared for properly and the money we are spending, which happens to be a great deal, appears to me to be wasted.

Sydney, let's start with some concerns. Do you agree with the basic proposition that from 1986 until now, we have seen a couple of things?

More children in care for longer periods of time?

More of them being homeless than ever before?

More incidents of reported child abuse, both anecdotal and empirical?

And more children being sexually abused?

As far as I can tell, this was the thrust of what was told Mr. Miller's committee last year. Do you agree that these continue to be problems?

If you disagree, can you tell me where you disagree?

Ms. OLSON. These things continue to be problems, as we discussed in our testimony. There are more incidents of child abuse, reported and actual. There is a difference in the type of child coming into the foster care system now than in the past.

Acting Chairman DOWNEY. What have you done in the last year specifically in this area to ameliorate what is a disturbing trend? What has your department been up to that would address these specific concerns?

Ms. OLSON. We cannot change the course of society through the Department of Health and Human Services. The problems that affect the cities and families have been and will be with us. I think we have tried through our research and demonstration and our coordinated discretionary grants programs to deal with these problems.

Acting Chairman **Downey**. Give me an example about child homelessness. What have we done specifically about children who don't have homes?

Ms. **Olson**. I don't know that we have done anything. We do have a Runaway and Homeless Youth Program, which is not associated with the foster care system, that helps to fund 300-and-some shelters.

Acting Chairman **Downey**. This is not a program that is, as you suggested, in foster care?

Ms. **Olson**. It is not.

Acting Chairman **Downey**. So in the last year with the number of things we have seen, we have not done anything new about homeless children.

What about child abuse?

Chairman **Miller**. Would you yield for a second?

Ms. **Stewart**. I wanted to say in relation to homeless children, we are working on a priority area for next year's coordinated discretionary grant program.

We have not had one until now.

Acting Chairman **Downey**. Why have you waited? What is the reason for the delay? Why are we waiting for next year?

I am a great believer in the future, but the here and now for children who don't have a home is something that tugs on all of our heart strings as bureaucrats and legislators. No?

Ms. **Stewart**. There is no question about that.

Acting Chairman **Downey**. What is the delay?

Ms. **Stewart**. There is no planned delay, but we have not had a specific priority area on homeless children and homeless families. We have been increasingly concerned about this and we are trying to address the issue within our coordinated discretionary grant program.

Acting Chairman **Downey**. What about child abuse, Sydney? Let's talk about that for a minute, the appalling increase partly as a result of people now coming forward who have been historically abused but also we just see more evidence of it. What are we doing specifically about the increase there?

Ms. **Olson**. The childhood abuse and neglect programs within Commissioner Stewart's bureau receive $46 million a year in funding, with which we make challenge grants to the States. The States then conduct child abuse and neglect programs.

Acting Chairman **Downey**. What is a good State? Who does a good job? Tell me a State that uses the challenge money effectively.

Ms. **Olson**. I would ask Commissioner Stewart if she has an opinion.

Ms. **Stewart**. I think a number of States have used that program effectively.

Acting Chairman **Downey**. Which ones?

Ms. **Stewart**. I am not prepared to give you a shopping list of good States.

Acting Chairman **Downey**. I will take a short list.

Ms. **Stewart**. We had 44 States who have established——

Chairman DOWNEY. I am looking for a model. Tell me a model State. Tell me a State that does a great job that I can tell my State to look at. If it is my State, then other States look at mine. Give me a good State.

Why don't you know what a good State is? Who knows? Does anybody here know?

Can anybody in the audience tell me a good State?

Chairman MILLER. Would the gentleman yield?

Acting Chairman DOWNEY. Of course.

Chairman MILLER. This committee received testimony that approximately 900 children entered foster care last year in the State of New Jersey simply because their parents had no place to live. We have also received testimony from various States that there has been an increase in the number of children entering foster care because of an increase in child abuse reports.

What has this department done in terms of anticipating how you are going to change the system to respond to that? How are you working with the States? These are two huge problems on the horizon.

They, along with substance abuse, are overwhelming the system which was working for a few years. Now the number of children entering the system is starting to escalate. What are you doing about them?

Mr. MOTTOLA. Basically, the things we do are through our coordinated discretionary grants program.

Chairman MILLER. Are you talking to HUD about the impact of the lack of housing on the expenditure money?

Mr. MOTTOLA. We went through the homelessness issue just before you returned, Mr. Miller. It was acknowledged we have not done anything new in the area.

Chairman MILLER. What about child abuse?

Mr. MOTTOLA. In child abuse, it is a very different story. We have some discretionary moneys to spend on child abuse and have used that money to provide demonstration programs to develop models that work and hopefully can be transferred to the community level.

Chairman MILLER. Have you asked for increases in title IV-B money so we can get services to these families, or title XX funds?

Mr. MOTTOLA. No, sir. The administration has not, to my knowledge, requested that.

Chairman MILLER. Is that true of drug abuse funding?

Mr. MOTTOLA. I am not aware of the total picture on drug abuse funding.

Chairman MILLER. You haven't looked at the front page of Newsweek or at the front page of Time, or watched the nightly news discussions about the increased numbers of children in foster care as a result of these things going on in our society. You are responsible for administering that system, yet you have made no request for additional funding. You haven't discussed it with other agencies. You haven't talked to your Cabinet Secretary and said, we have to have additional moneys otherwise we will continue to load children into this system?

Essentially you are prancing along as if it were 3 or 4 or 5 years ago, even though we have had an explosion of children coming out of abusive homes, out of substance abusing homes, and out of homelessness situations. You are just running the old system the same way it was running before.

Mr. **Mottola**. We haven't asked for additional resources. We have tried to direct our funding to some of those problems to prevent abuse or prevent neglect.

Chairman **Miller**. That would be how much money?

Mr. **Mottola**. Approximately $14 million.

Chairman **Miller**. Nationwide? $14 million?

Mr. **Mottola**. In child abuse.

Acting Chairman **Downey**. Why haven't you asked for any more money? $14 million doesn't sound adequate to me. Do you think it is adequate, $14 million?

Mr. **Mottola**. I cited only one categorical example. There are other funds available for some of these programs.

Acting Chairman **Downey**. Let's stick with what you are familiar with. $14 million, is that adequate to do the job, do you think?

Mr. **Mottola**. I don't know that anyone knows the amount of money adequate to do the——

Acting Chairman **Downey**. You are in charge of the program. Who should I ask? Who else can give me an answer about what is adequate and what isn't? You are in charge of it.

Mr. **Mottola**. We think we have been able to do some beneficial things.

Acting Chairman **Downey**. With $14 million. You don't think a penny more will help? Just yes or no.

Mr. **Mottola**. I can't say a penny more would not help. Whether it is necessary or not——

Acting Chairman **Downey**. You don't think it is necessary?

Mr. **Mottola**. Given all of the current constraints on funding, I don't know the answer to that question.

Acting Chairman **Downey**. Okay.

Let's talk about the other side of the issue which is the fiscal reviews, in particular, the IV-E fiscal reviews. How does the Department determine when to do a State for title IV-E fiscal review?

Mr. **Mottola**. This is a relatively new program, about 4 years old. We started out with reviews of those States that seemed to have the biggest foster care IV-E eligible populations. Over time we have been able to review almost every State and we have gone into some States two and three times.

Acting Chairman **Downey**. How many States have you reviewed?

Ms. **Olson**. Forty-three.

Mr. **Mottola**. Forty-three.

Chairman **Miller**. You disallowed how much money?

Mr. **Mottola**. Close to $4 million and I think we have pending disallowances of $14 million.

Acting Chairman **Downey**. One of the criteria I heard you mention was large foster care population. Why hasn't New York been reviewed? It has got the second largest population.

Mr. **Mottola**. That is correct. We have not reviewed New York. We have had the intention of reviewing New York. We have had a longstanding——

Acting Chairman **Downey**. Just slipped your mind?

Ms. **Olson**. The Inspector General's Office is going to review New York and California, in part because of the size of these

States. Our agreement with the Inspector General's Office should save time and resources.

Acting Chairman DOWNEY. Has the Inspector General reviewed the State?

Mr. MOTTOLA. No. We have had Federal staff, including IG staff and our own staff, working with New York State on foster care financial issues for some time. The problem is trying to coordinate the review practices.

Acting Chairman DOWNEY. When do you think it will be coordinated?

Mr. MOTTOLA. We have determined that we were going into New York this year, come hell or high water. I hope we can do it.

Acting Chairman DOWNEY. When? When do you think?

Mr. MOTTOLA. Probably around the end of this fiscal year.

Acting Chairman DOWNEY. So September? October?

Any of you familiar with the lawsuits that have been filed in New York State? Does *Dole* v. *the New York City Department of Social Services* ring a bell?

No?

This is an interesting lawsuit that challenges the practice of night-to-night placements and using agency offices as shelters. That is not acceptable to the Department, is it?

Mr. MOTTOLA. No. I wouldn't think so.

Acting Chairman DOWNEY. No. You wouldn't think so. The lawsuit found apparently that data indicated that there were in excess of a thousand children subject to multiple overnight placements with over 450 children who have had ten or more placements. Many children have had as many as 20 and a 4-year-old had 18 placements in April and 19 in June of 1987, and there was a 12-year-old girl who attempted suicide before entering foster care and had 17 placements in 18 working days.

Now, it seems to me—I come from New York. I love my State. I was educated there. If the State of New York is not doing the job, and it is clear to me from the evidence of this lawsuit that there is probably ample reason to suggest that, while New York may be trying to do the job, that it is not succeeding, then what is the national government's responsibility when they learn about lawsuits like this?

For instance, none of you had heard of this lawsuit. Okay. Now you have heard about the lawsuit. Does it affect you? Will you go home and say that was a tragic thing the Congressman said, maybe it is something we need to look into?

What would you do in terms of the information that comes in about a State, whether based on your own audits or based on anecdotal information, to try to take some sort of corrective action, provide additional oversight or remedial help to a State? What is the practice?

Ms. OLSON. I would say with regard to the cases you mentioned, that is not a question of a fiscal review failure, but a section 427 protection review failure. I would definitely want to talk to our regional administrator in New York City, Carolyn Woodward.

Acting Chairman DOWNEY. Do you think she would know about the lawsuit?

Ms. OLSON. I feel confident she does.

Acting Chairman Downey. Does she talk to you when lawsuits like that are filed? Does she say we have a problem in New York, they just filed this lawsuit? What sort of information exchange do you have with the regional offices?

Ms. Olson. We meet with them frequently and talk with them frequently on the telephone. If the Federal Government is not party to the lawsuit, I am not sure she would feel it necessary to talk to me personally about it.

I don't know that she contacts the Children's Bureau or the Administration on Children, Youth and Families with regard to every lawsuit.

Chairman Miller. You are party to the lawsuit, Secretary Olson. You are paying the bill for the care of these children. You are paying the bill essentially to support a good portion of the system which these children move through and those lawsuits, again, one right after the other are finding for the plaintiff, against this system. They have found this system to be out of compliance with the law, inadequate in almost every respect in one State or city or another with compliance, no matter which part of the system you look at.

So when you get a major lawsuit, and you get a contempt of court, or you get a judgment against the State, doesn't it bother you that you are the steward of this system and the Federal court has just now ruled it is out of compliance with the laws you are supposed to administer and you may have passed that State? It doesn't—technically, you are not a part, except you are paying the freight.

When States are out of compliance, they are not supposed to get this money.

Ms. Olson. That is correct.

Chairman Miller. That is right. Somehow that doesn't happen.

Acting Chairman Downey. Let's talk about, since you raised it, the title IV–B section 427 reviews. How does the Department determine the case plans and how do you set specific goals and time tables for achieving them?

Ms. Olson. The law defines when the cases will be reviewed. It requires a periodic review of 6 months, a dispositional hearing within 18 months, and another dispositional hearing within a time period defined by each State. Our case plan evaluation review team goes in and tries to verify that these hearings and reviews are being provided at the time required by the law.

Acting Chairman Downey. How many States have you done that in? All of them?

Ms. Olson. Twenty-five States.

Acting Chairman Downey. What about the other 25?

Ms. Olson. Fifty States have been reviewed for section 427 purposes.

Acting Chairman Downey. Is that just where they check these items? There are some items that are required for you to procedurally review. Tell me about the level of compliance.

How closely does the Department look at the plan and the methodology in terms of really examining whether or not the 6-month review is purely a question of somebody saying, well, we have been through this and we just check it off as opposed to really taking a look to make sure the 6-month plan review is one that actually is concerned that the child not stay in the system too long.

Tell me how thorough you think these 6-month reviews are?

Mr. MOTTOLA. We look at the documentation which is in the file and make a judgment which is based on that documentation. We do not sit through a review to understand——

Acting Chairman DOWNEY. Do you randomly sample those State reviews? Do you send anybody to watch them do the reviews? Do you pull case records?

What is the procedure?

Mr. MOTTOLA. We look at the case record and the case plan which has the material in it. But we do not, as you suggest, sit in on the review. We do not watch the reviews. We provide——

Acting Chairman DOWNEY. A representative sampling might give you some further indication of whether the reviews are adequate or not. No?

Mr. MOTTOLA. I think I would agree with that.

Acting Chairman DOWNEY. Good.

Chairman MILLER. Why don't you do it?

Acting Chairman DOWNEY. That would be my next question.

Mr. MOTTOLA. Because it is a very big system and it is a very complex law, with many provisions that we are required to provide some kind of oversight and regulation for.

We have tried to use the most systematic approaches and the most objective approaches that we could and the most realistic in terms of the ability to find out things and to make judgments about them.

Acting Chairman DOWNEY. Let me ask you a question about the data that you have been able to compile from the inventory of children in care for longer than 6 months and from the statewide information system on children and foster care. How do you use that data?

Mr. MOTTOLA. May I ask if you are referring to the VCIS system?

Acting Chairman DOWNEY. No. The title IV-B section 427 information data you receive.

Mr. MOTTOLA. In a section 427 review?

Acting Chairman DOWNEY. The data you would compile, yes, from the section 427 review.

Mr. MOTTOLA. The data is used by the State to understand the parameters of its section 427 eligible population. Based on that data, we ask the State to select a sample of cases which we review in the——

Acting Chairman DOWNEY. I am not asking about the States specifically. I am asking about you, the Department. The Department collects data from lots of States, does it not?

All of the States? Supposedly?

Mr. MOTTOLA. The Department does not collect data on the general foster care population. The data that we have available is collected through the voluntary cooperative information system known as VCIS.

We do have data on the title IV-E populations.

Acting Chairman DOWNEY. Am I correct in my understanding that the IV-E covers both IV-B and IV-E children in the data you collect? Is that a correct assumption?

Mr. **Mottola**. Yes, sir. It covers both IV-B and IV-E because those are basically the populations that are eligible for the 427 protections.

Acting Chairman **Downey**. What do you do with that data? Does that data, when you look at it, determine trends and offer possible suggestions to States based on trends as to what is working, what is happening, what is not happening? There is a fund of information, is there not, here?

Mr. **Mottola**. There is information available through the VCIS system.

Acting Chairman **Downey**. What is the VCIS system?

Mr. **Mottola**. The Voluntary Cooperative Information System.

Acting Chairman **Downey**. What about the law? What about the requirements we have from you under the law to deal with this data?

Mr. **Mottola**. The law requires the State to have a system—an inventory of all the children in foster care subject to the 427 protections. We, before we go on site for 427 reviews, look to that data to make sure the State has the inventory required under the law.

Acting Chairman **Downey**. You are required—all 50 of the States have that data?

Mr. **Mottola**. We are reasonably satisfied——

Acting Chairman **Downey**. How many States have it?

Mr. **Mottola**. Well, from our determination, 47 out of the 50 States would have it.

Acting Chairman **Downey**. You would say of the 47 States that they keep levels of information that, in your view, satisfy the law?

Mr. **Mottola**. Yes. There are different ways they do it. Some have very sophisticated computer information systems and others have almost temporary systems. The test is usable information on the number of children in foster care.

Acting Chairman **Downey**. Why don't we know how many children are in foster care if 47 of the 50 States do a good job of keeping their data?

Mr. **Mottola**. We don't look at all the States in any given year for that purpose. We basically—we rely on the——

Chairman **Miller**. Do you hand tabulate the State or do you use another procedure?

Why can't you look at it in a given year? There are only 50 States.

Mr. **Mottola**. We don't look at each State every year. In terms of the 427 reviews, we——

Chairman **Miller**. You are giving public assistance a bad name.

Acting Chairman **Downey**. When I figure out the baseball averages each morning, it doesn't take me long—and I am not a whiz in math—why couldn't you have one person tabulate the data that the States are required to provide you on the same basis every year and update it. Why don't we know this?

It is really mystifying to me to have you be unable to tell me how many children are in foster care. That is crazy.

Ms. **Olson**. Congressman, I asked the same question with regard to the State inventories and the statewide information systems. Apparently the situation is that the States are not required to report to us nor are they required to collect the same data in the same form for transmission to the Federal Government.

Chairman MILLER. Let me read you the law. It says you have a statewide information system from which the status, demographic characteristics, location and goals of the placement of every child in foster care who has been in care within the preceding 12 months can readily be determined.

You are describing to me a system in which you can't determine that because it is different or it is complex, or whatever the words are that you want to use. Yet that is what the law requires. That is one of the conditions before a State can participate.

Ms. OLSON. That is correct.

Chairman MILLER. Then you are sitting here administering a program in absolute lawlessness. You don't care whether people comply or not.

Ms. OLSON. I don't believe——

Chairman MILLER. Is the VCIS system the same system that tells you in 12 States, 40 to 50 percent of the children in the foster care system are continuously in care for 2 or more years? In four States and Puerto Rico, the children have been in foster care for 2 years or longer?

That is your great data system? Do you do anything with the data? Do you understand why there is an 18th month review and the purpose of the dispositional review? It is to get the kids out of the system. Yet 50 percent of the kids are in this system for 2 or more years.

Do you know what the evidence is for children in the system for 2 years? It is that they will grow out of the system rather than leave the system because of some State action. They will simply turn 18.

These children have an 80-percent chance of spending the rest of their lives in the system. You are sitting here in violation of law and sentencing large numbers of children to spend the rest of their life in a foster care system.

Is it the same system with the IV-E reviews? You have disallowances in California for 7 million, District of Columbia for 2 million, Maryland for 800,000, and in Louisiana. You have high rates in New Hampshire, 96 percent in Louisiana, 63 percent in Maryland. Do you think you are doing a good job?

In the eight States with the highest error rates, you never reviewed them again. You just believe the States when they say we are going to do better next year. This is the administration that talked about waste, fraud and abuse. You make everybody else look like a piker.

This is a billion dollars. It is all the money we have for these kids. When it is not spent right, some child doesn't get those services.

It is just incredible. We are not sitting here telling you not to look at California or not to look at certain States. It is shocking to us that you waited 8 years to look at the two largest States in this system. Our system is drowning in California because of the increased number of children.

They have been screaming for help for 2 years. As you leave town, you are about to audit them.

If you look intently at California, Illinois, or New York, you can see what is wrong with the system. You can tell how to fix it so the other States can benefit. They have the vast majority of the children in this system.

You didn't do that. Even in the small States, you don't go back to see whether they are repeating the 63 percent error rate or an 80 percent error rate. It is malfeasance.

You know that you are the lead horse in a grand conspiracy of noncompliance with this law. That is why so many people are winning court cases.

Do you know what those lawsuits are going to cost this Government and local governments?

Before you take a child from his home, the law requires that you have to make a reasonable effort to provide services to see if you can save that family. That is pro-family. If the father is an alcoholic, maybe we can get him into AA. If he is an abuser, maybe we can get him into a counseling program. Maybe that family can survive.

But the law is not being complied with. You don't care. If you do take the child away from the family, the law requires you to make some effort to reunify that child with his family. You must see if something can be done to help the family? Can you bring the child back or get the family into counseling?

You don't care about reunifying those families. You don't give a damn about that. We listened to a judge in Los Angeles tell us that he is taking children away from more and more people because they don't have a home. He said that there is no question in his mind that those children and those parents love one another.

But they don't have a home. You haven't put together a task force to talk about the impact of homelessness on the foster care system, or drug abuse on the foster care system, or border babies on the foster care system.

These are all on your watch. What you have decided is that the law won't be complied with. Six month reviews. Do you know why we wrote that? Because in the old law they were taking 2½ minutes to make a 6-month review.

So we said "this time we want it to be meaningful." Yet as I read you, State after State has failed to make that review meaningful. You don't care.

One of our witnesses told us "you have to work overtime to flunk your audit. The States haven't complied with the law.

I guess you are just picking up your salary and having a good ride on the taxpayers. You are blowing taxpayers' money left and right. You are screwing up a lot of kids.

We had a young man testify, a boy, 12 years old. Half of his life, all of it under your administration, had been spent in foster care. All he wanted to do was go home to his mother.

Why was he taken away? Because his mother had an emergency operation and had to go in for medical procedures. It took her 5 years to get her child back because nobody had to comply with the law. There was no threat that you were going to cut off funds or make anybody comply with it.

Acting Chairman Downey. Mr. Levin.

Mr. Levin. I have been in and out. We have heard this testimony. What is your answer?

Ms. Olson. Answer to Mr. Miller?

Mr. Levin. Yes.

Ms. Olson. I am not sure it is possible to answer Mr. Miller. I would only say that in the time I have been at HHS, I believe the Administration on Children, Youth and Families, the people in the central office, and the people in the regional offices, have tried sincerely to implement the law and the protections that are provided for children.

There is no question that there are problems in the system at the State and local level and at the Federal level. I am not convinced there is a way to audit correctly and perfectly every single case in the child welfare system, but we are trying to improve. I think the States are trying to improve. We are happy to work with this committee and in the future, we look forward to consultation with you. I do believe we are attempting to administer the law.

Mr. Levin. I am somewhat new to that. I attended the committee hearings—this is our third—and we are incensed. You have been in the Department a few months.

Ms. Olson. That is correct.

Mr. Levin. Are you incensed? Are you troubled by what you found?

Ms. Olson. I am troubled, I am disturbed. I am not incensed. I don't think the situation is simple enough to be incensed at. Given——

Mr. Levin. What does that mean?

Ms. Olson. I know Mr. Miller is tired of hearing that it is a complex situation. Any program, any—whether it be at the State or Federal level—which looks at thousands of children is going to have mistakes. One system that works well in one case will not work for every case. I think Ms. Stewart, as a practitioner before she came to the Federal Government, would tell you you cannot set hard and fast rules for every case that is considered.

Therefore, I am not sure that being incensed is a constructive way to look at the system.

Mr. Levin. You can be incensed at a situation even if the answer is complex, can't you?

Ms. Olson. You can be incensed. I would say again I am not sure it is constructive. We are trying within the bounds of how we read the law and our resources to do a good job and to do an increasingly better job.

Mr. Levin. You need more resources?

Ms. Olson. It is difficult for a Reagan administration appointee to say we need more resources. They would always be welcome, I am sure.

Mr. Levin. That is a revealing statement. Partly because it is true, I guess.

Ms. Olson. Congressman——

Mr. Levin. You need more resources?

You have been there 3 or 4 months. You need more resources, yes or no?

Ms. Olson. I won't answer that yes or no because we have, as you know——

Mr. LEVIN. You just said you did.

Ms. OLSON. The maintenance payments under foster care and adoption assistance programs are entitlements. Congress appropriates. We spend what is necessary, what the States spend.

Title IV-B, child welfare services, as you know, has risen over the last few years slightly. I won't claim that the Administration asked for increases in that program.

However, I think you are also aware if the spending on child welfare services reaches $266 million in the original law Mr. Miller worked on, the funds for foster care are capped. That has all sorts of bad implications for many States, most States, almost every State.

Thus, it is difficult to say that if we had more money in child welfare services, we could have made significant improvements in the system.

Mr. LEVIN. So you are disturbed, though not incensed. What improvements—what is the answer? I don't sense from you or from your written testimony there is a lot of discussion about the present serious problems.

You don't say you are disturbed. You are worried. You say there has been considerable progress. The whole flavor of the testimony is the status quo isn't so bad. But you say you have been there a few months.

You are disturbed by what you found. What are you going to do about it?

Ms. OLSON. I think we are going to try to increase our contact with the States, through the State planning process, to ensure that child welfare protections and services are what they should be.

We will continue our 427 reviews, go back to the States that have failed. We will go back to the States that are self-certified and rereview those. We are increasing our fiscal audits. We are increasing the use of our 426 money for research and demonstration projects which we hope will help in dealing with new problems.

We are getting into the area of border babies through our Head Start program as well as through foster care adoption assistance. We are also trying to deal with the problems of drug-addicted infants through our university affiliated programs in many States, through the Administration on Developmental Disabilities, and through the Head Start and foster care programs.

Mr. LEVIN. One last question. Are you convinced that that plan of action will change the picture between now and the end of the year?

Or help change it?

Do you think if you come back here in December the picture is likely to be any different than it is in May?

Ms. OLSON. We have acknowledged our problems with data collection. I don't know that by the end of the year our data will be any better. I think we will have more experience from our visits to the various States and regional offices, but most of this information will be anecdotal.

Mr. LEVIN. Well, okay.

Ms. OLSON. This is not totally a Federal responsibility, as you know.

Mr. LEVIN. I know that.

Ms. OLSON. We focus on working with the State.

Mr. LEVIN. There is a Federal responsibility to know what is going on, right?

Ms. OLSON. There is a Federal responsibility to know what is going on.

Mr. LEVIN. After 8 years, you are saying, as I read the testimony, we don't know what is really going on?

Ms. OLSON. We have information as Mr. Mottola said, through the VCIS system on what is occurring in foster care and child welfare services. Our most recent information unfortunately is from 1985.

Mr. LEVIN. Thank you, Mr. Chairman.

Acting Chairman DOWNEY. Mrs. Johnson?

Mrs. JOHNSON. Thank you, Mr. Chairman.

You have used the phrase a number of times, protections provided for children. I gather from your testimony, and I am sorry I was not able to be here the entire time of your testimony, as I had another hearing going on at the same time, but I gather from your written statement and your comments that you see as the primary protections—protection provided by the Federal law the system—more reviews and hearings to assure that once a child is placed, a plan is done, that that plan is reviewed, that hearings are held. Do you see that as the primary protections the law provides for children?

Ms. OLSON. Congresswoman, we are also required to make sure the child has been removed from the home appropriately and that efforts were made to keep the family together when possible.

Mrs. JOHNSON. How does your system—I agree with you, the law requires that. How does your functioning address those latter protections children are supposed to have?

Ms. OLSON. I would ask Ms. Stewart to respond to that.

Ms. STEWART. When we do our reviews in a State, we are looking at a selected scientific of cases, and looking at the extent to which those protections have been provided in those cases based on the information in the case record. Has a case review taken place every 6 months? We look at the case reviews that are in the record.

Mrs. JOHNSON. You read the social worker's report about the family, the kid, the choice of placement program? Is that what you mean by you look at the record?

Ms. STEWART. The case record includes information about the work with the family.

Mrs. JOHNSON. You read all of that background?

Ms. STEWART. The responsibility of the Federal and State staff jointly conducting the review is to see whether or not the specific protections are actually being met in those cases. We are not in those reviews making judgments about the quality of the individual caseworker services that are being provided.

Mrs. JOHNSON. I fail to see how you can provide the protections of the law, the systemic type of protections, the case reviews, the hearings, those kinds of things that we put in place for a reason. I think it was a legitimate reason.

But also how can you address the issue as to whether this child was appropriately taken out of their home? Were there alternatives for that child? Even on the later reviews, is that child being inappropriately kept out of his home unless you make some judgments about whether the caseworker has investigated other programs.

You do have to in the end make some judgments about the quality of the caseworker's performance and of the quality of the situation which the child is in and know something about the quality of programs that exist in that State as options, do you not?

Without making those judgments, how can you make the judgment that the case is appropriately handed except to make the judgment that the review complied with the 30-day requirement and the 6-month requirement?

I can see how you can make that judgment. I don't see how you can make the judgment that flows from the other half of the law which has to do with appropriateness of removal and appropriateness of placement and timeliness of returning the child to their family without something more than a paper review.

Maybe we are missing something here. Maybe your paper review—are you in State when you do this?

Ms. STEWART. Yes.

Mrs. JOHNSON. Are you sitting with a social worker?

Ms. STEWART. Usually there are several Federal officials and several State-selected people who jointly conduct the reviews.

Mrs. JOHNSON. If you review in that way, it does seem to me that some of the problems that underlie the problems between the Federal Government and Connecticut would not have emerged as problems worthy of carrying a situation through already several levels of litigation.

For example, if you sat with the Connecticut people and had that level of conversation, wouldn't it have come to light that you were dealing with a different pool from which you were sampling than they were dealing with? That, in fact, our State excludes children who were in court-sanctioned, permanent, foster-care placement positions? They don't see them as subject to the same reviews. That could be right or wrong, but certainly that is something that is understandable.

You can look at the pot and say, "Hey, look, we are dealing from different pots here." That seems to me something that is negotiable.

Likewise, the issue of whether the 30-day case plan that is required to be done by law, if it was a day later or 2 days later rather than a month later or 2 months later, that those things can be discussed and that those issues shouldn't become the degree of issue that they have become in the Connecticut-Federal situation.

Do you discuss those kinds of things? How do you explain a case coming forward and taking so much time and energy, and endangering critical dollars for children that is fundamentally kind of a technical legalistic case unless you can say that you also, from your experience in reviewing these case, can say that you think children were placed inappropriately and poorly.

As one who served in the State senate for a number of years, and was deeply involved in the oversight of child placement services in Connecticut, I feel strongly we have one of the best systems in the nation; but if you felt that our children weren't being placed properly or were being taken out of the home inappropriately, then I want to know that.

From the kinds of things that have come forward out of this case, I tell you, I don't see it. I do see 30-day reviews that were done in 32 days. I do see this business of base and difference of conception. But I don't see how you can say that you are implementing the second half of the law when cases like Connecticut's has gone this far and there is no documentation.

I tell you, it reminds me a lot of stuff that went on in Connecticut between the EPA and some of the people in the private sector where they are determined to get them for not putting a sign up even though there has been no degradation of the enviroment.

It seems to me you are so focused on the technical aspects of this, the timetables and meeting with State people, that you are missing the kids. And I would ask you, do you have absolutely no resources in your office dedicated to unannounced, onsite visits occasionally in a State you are reviewing, going to some programs, going to people, even if it is not unannounced, something to get yourself out there on the front line, take a couple of cases, go with it from the detail into the home, into the placement center. I don't see how you can do your job without that.

Do you have any resources devoted to that when you go into review a State?

Ms. STEWART. We do not.

Mrs. JOHNSON. How do you make the judgment, then, that goes along with the other half of the law that this child has been taken from their home appropriately? And the second judgment, that they have been placed appropriately; and the third judgment, that they cannot yet return to their home? How do you make those judgments.

Ms. STEWART. Your questions indicate that you have serious questions about the way we conduct our reviews. But, to suggest that our decisions about the foster care population are arbitrary, is incorrect and I would have to be concerned about that.

We have been very clear in trying to help the States understand who the population is in foster care and who the children are that are covered under the 427 protections. If we have erred, we have erred on the side of over-including children in the section 427 population, because we feel that any child that is in the foster care population, whatever the circumstances, deserves to be looked at on a regular basis.

Mrs. JOHNSON. I am not saying those issues don't need to be identified and resolved. All I am saying is that they are the kind of issue, that between the Federal and State Governments ought to be identifiable and resolvable without funds being lost for the care of children, that when you see that that is one of the causes of the differences, then you simply make some allowance for time to go back and get a bigger sample or whatever.

I don't know what the solutions are. I join my colleague from Connecticut, Mrs. Kennelly, in urging that you sit down together and look at this thing. I don't pretend to be in a position to do that. A lot of the problems that have come up in reading this material is stuff that I know goes on between the State and Federal Government all the time, and is resolvable.

I can't imagine that anyone has interest in actually losing money over that kind of an issue. If you were documenting to us that we were inappropriately ripping children out of homes or putting them in terrible placements, absolutely, I would say withdraw the money.

But when I see in my own experience that kind of technical stuff and hear from so much of the testimony the focus on the technical aspects, as important as they are—and they are important—and I think the Members of Congress have to be a little bit more honest about what we ask you to do.

One of the reasons I think you are focused on that aspect of the system is because it is more manageable in a sense. Because we don't give you very much money to do these very big problems, but we also are looking to you to oversee what we believe we are requiring of the States.

So your position is sort of second-audit position. I don't see how you can do that without doing what any good State does, which is some onsite oversight work of their own programs and the performance of their own personnel. If you don't occasionally do that, I don't see how you can get a grasp of whether the system is actually functioning in the way the law clearly requires, because the law does clearly require a service program to help children, where appropriate, return to families from which they have been removed and placed for adoption or legal guardianship.

The next section talks about a preventive services program.

Mr. Chairman, may I make just one other comment?

Acting Chairman Downey. If you can do it in under 30 seconds. We have to finish the panel and go forward.

Mrs. Johnson. I think it is very, very important, as a member of the Budget Committee, for me to say we froze your budget this year. We gave all to poverty—this has to be on the record.

We gave the poverty programs in this nation an increase for inflation. We gave certain other programs, including education, an additional increase. But I don't care whether a Democrat is the President next time around or a Republican is the President next time around. On that Appropriations Committee, the Budget Committee, the majority are Democrats. Neither party will have access to dramatic new resources.

One of the reasons we are so intent here is that we really feel children's interests aren't being met. Somehow we have to turn around the use of our resources so we develop more early intervention programs, more family preservation programs.

If your review process is focusing on the kind of data it is, maybe we have to look at how do we get you in on the family preservation goal as the first goal, the earlier goal. We are all in this together, and will only save the system by working together.

Acting Chairman Downey. Let the record show that in the last 4 years, in testimony before this committee, this agency hasn't asked for any more money.

Let me make a point that was apparent to me and to Mr. Miller and others in our preparation for this hearing. We held two other hearings. You are aware of those, are you not? The hearings show we have more than a passing interest in this matter.

Let me read to you the 1987 testimony of your predecessor, very briefly. A bullet on page 5.

"Shorter periods of foster care. In 1980, the median length of time a child spent in foster care was 27 months. By 1985, it was 18 months, a decrease of approximately 33 percent. Recent data indicates that one half of children leave within nine months and three out of four children leave within 2 years."

This goes on and on and on. This reminds me of one of the book reports I used to do in high school. I recycled them in 10th grade and 12th grade, my ample literary knowledge notwithstanding. My reports didn't change. Remarkably, apparently neither does your testimony from year to year.

Mr. Miller, in a far more emotional way than I can ever do, has expressed for me certainly and for others, the sense of anger and outrage that we feel about the way the administration has administered this program.

We are all responsible for the failure of children to have lives of decency and hope. I share that failure. You share that failure. You share it a little bit more because you are responsible for a program that oversees whether the States do a good job.

The States should do a better job. They do an appalling job, as far as I am concerned. But we manage to match them with our failure to ride herd on them.

I would like in the remaining months that you are in office, Ms. Olson, for your name to strike the fear of God into the States so that when they see you coming, they know that if there is a child longer than 6 months in a program, there is going to be hell to pay. That would be the sort of legacy that you would be proud of, I believe. It would certainly be the legacy we would want to see happen.

Failing that, I think the marks that you would get and we would get would be very low. It is very difficult to explain to a child who has been shuffled from pillar to posts to desks that we are working on the problem and we just somehow haven't figured out a way to help them. That is unacceptable to me.

We will hear from the next panel when we return.

[Brief recess.]

Acting Chairman DOWNEY. The committees will come to order.

We will next hear from MaryLee Allen, director, Child Welfare and Mental Health Project, Children's Defense Fund; Dennis Walcott, National Black Child Development Institute and executive director, Harlem-Dowling Children's Services, New York; David Liederman, executive director, Child Welfare League of America; Sue Dondiego, legislative chairman, New Jersey Foster Parents Association; and Ruth Massinga, secretary, Maryland Department of Human Resources, and president-elect, American Public Welfare Association.

STATEMENT OF MARYLEE ALLEN, DIRECTOR, CHILD WELFARE AND MENTAL HEALTH, CHILDREN'S DEFENSE FUND

Ms. ALLEN. Chairman Downey and Chairman Miller, I am MaryLee Allen, director of child welfare and mental health at the Children's Defense Fund (CDF).

I really appreciate the opportunity to testify this morning on the future of child welfare. It is perhaps with a bit of trepidation, following your examination of the previous witness, but with excitement as well, that I appear as you continue to look seriously at the problems of the foster care system.

As you recall, Chairman Miller, it was about 12 years ago that the Children's Defense Fund first appeared before the Committee on Education and Labor to share its concerns about the child welfare system. At that time, we were just undertaking a national study of foster care and were outraged by the pervasive antifamily bias and the gross public neglect that we were seeing at all points in the placement process.

In that study, we found that too frequently children and families didn't count in the child welfare system.

Nothing was known in the States about who was in care, where they were, how long they had been there, or what was happening to them.

Case planning and periodic reviews were nonexistent. Things we have been talking about today, prevention and reunification services, for example, weren't even part of the vocabulary of the child welfare system. Many children were still labeled unadoptable.

I remind you of these findings because I think it is important as we look to the future and where we want to go, that we not forget to look at where we started.

Although we continue to see grave problems, progress has been made. I think I represent the entire panel when I say that we believe that Public Law 96-272 has really had a significant impact on the foster care system. And, but for that impact, the crises we are witnessing today in the foster care system would be even more overwhelming.

Certainly, in spite of repeated administration attempts to gut the law and to undo much of what you had done in 1980, your leadership has kept us on the right track.

Public Law 96-272 has provided an important catalyst in the States to set a framework of policies and protections for children. However, it has done just that and the gap between policy and practice continues to be enormous.

Witnesses at earlier hearings have told you about the many children who are still being severely injured in the foster care system. You have heard about inadequate monitoring of the quality of care, misdirected fiscal priorities, inadequate and inappropriate supportive services, and untrained, unqualified staff. All those things prevent the benefits of Public Law 96-272 from reaching the children and the families they were intended to protect.

As the first speaker on this panel, I will talk about the directions or themes that we think are particularly important as we look to the future of child welfare.

The next panelists will discuss some of what works and can help us meet the challenges facing the child welfare system today. Finally the American Public Welfare Association will follow with its perspective on the Federal role in this regard.

Parentheticlly, I note that we have done a bit of interagency coordination on our own to try to move the hearing along and get to the questions and answers.

In looking to the future of child welfare, CDF believes strongly that we should focus our energies in three directions. We can no longer target our energies only on the child welfare system. If we do, we will continue to be unsuccessful.

First we must address the broader societal problems that have had such a devastating impact on the child welfare system.

Second, we must move toward the establishment of a single child-serving system that adequately protects and serves children and families.

Third, we must retool our current child welfare system. We must move it in a direction that will ensure that families will be supported in the first instance and children protected, that will put in place a system of quality care for those troubled children who need care, and that will place children in the most family-like settings appropriate to their needs.

As part of that retooling, we must ensure that all children move toward permanent families, but as importantly that those children who are growing up in the foster care system will be able to become self-sufficient adults when they leave the system.

I'd like to talk briefly about each of these major challenges. First, new demands have been placed on the child welfare system. I would like to spend just a few minutes talking about some of those demands and the directions in which we need to move. You have already talked about some of them earlier this morning, and also heard about them through the course of your earlier hearings.

The escalating rates of child poverty, the growing numbers of homeless families with children, growing substance abuse, increasing numbers of children born to unmarried teens, the devastating effects of AIDS—all of these things will have a devastating impact on the child welfare system. They have presented new demands on the system and have jeopardized the system's ability to respond appropriately to the children and families who come to it for care. Over a decade ago such phenomena were not even considered when we looked at child welfare reform.

Today, however, we know about the impact of these various phenomena on the child welfare system, but we have done virtually nothing about making some of these connections known. We haven't done very well in educating the public about these connections.

There is a lot of talk about homelessness, about increasing reports of abuse and neglect, but no sense of outrage or no sense of the relationship between these problems and the growing demands being made on the child welfare system.

There is an opportunity now to make those connections and to move ahead.

At the same time, however, as we try to get more attention to these grave problems and take it upon ourselves to implement an agenda to address problems such as growing child poverty, substance abuse and others, we must look in the future toward developing a single service system that will assist families and children.

Frequently now we have much duplication and fragmentation between child serving systems.

Labels are attached to children—abused, neglected, emotionally disturbed, runaways, et cetera, but they tell us nothing about the needs of those children. They tell us nothing other than which door of the system they came through. In fact, the children in these various systems, as you know, have the same needs.

We must do more to move ourselves toward a single-service-system that has a single intake point, that does not operate on the basis of labels, but provides the comprehensive services that families need in the first instance to try to keep families together and to prevent the need for children to enter these systems at all. A comprehensive array of services must be in place.

As we move in this direction, we must move toward increased interagency cooperation. We are talking about joint training and joint funding, about joint efforts to institute actual programs, about child welfare and mental health moving together.

We must get away from the situation we have now where you hear a child welfare worker, extremely concerned about her inability to find services for a young child in her care, hoping quietly that that 10-year-old child will commit a crime so he can get a new label and be moved into another system of care where he is more likely to get help.

Third, as we move in these two major directions, we must also work toward retooling the child welfare system.

The Children's Defense Fund strongly believes that the directions in 96–272 are the right directions: strengthening families in the first instance; providing quality care in family-like settings for even the most troubled children when care is needed; moving children toward permanent families; and helping to prepare for self-sufficiency those teens who will stay in the foster care system until they become adults and sometimes parents themselves.

However, we have to move now to close the gaps between policy and practice in each of these areas. We must focus in the area of family preservation. We must redirect fiscal priorities. We must look at the quality of care children receive, but also and very importantly, we must look at staffing, staffing is an issue that hasn't been discussed enough throughout these hearings but is essential if we are going to close that gap between policy and practice.

We must look at the quality of staffing, training, and the supports that workers need. No worker, even the best worker, with 60 to 100 cases, can carry out the intent of Public Law 96–272. Neither can workers with 20 cases if they don't have the support and the other sorts of assistance that they need.

These are the directions that we must move forward in.

Certainly the challenges can be overwhelming.

We have heard many times today that the process of child welfare reform is complex. In fact, it is complex but we could be doing so much more than we are today. The challenges are clear, but what is more exciting and encouraging is the fact that we know what works.

The other panelists will share some of those things with you.

Thank you, Mr. Chairman.

Acting Chairman Downey. Thank you.

[The statement of Ms. Allen follows:]

STATEMENT OF MARYLEE ALLEN, DIRECTOR, CHILD WELFARE AND MENTAL HEALTH, CHILDREN'S DEFENSE FUND

Chairmen Downey and Miller, members of the Subcommittee, and members of the Select Committee, I am MaryLee Allen, Director of Child Welfare and Mental Health at the Children's Defense Fund (CDF), and I am pleased to have the opportunity to testify today as you continue your joint exploration of child welfare, foster care, and adoption issues. I especially appreciate being invited to address the future of child welfare services.

It was almost 12 years ago that the Children's Defense Fund first appeared before the Congress to share its concerns about our nation's child welfare system. We shared with you then the experiences of Joey B., a young Louisiana child who had entered foster care at the age of three. His mother was in the process of a divorce and could not get money from public assistance for several months so she had placed him voluntarily in care for what she thought would be a brief period. Joey did not return home again for ten years. He lived in at least three foster family homes, and in institutions in New York and Texas. Mrs. B could not afford to visit him -- and her repeated efforts to reach him by mail and to have him returned had been of no success.

At that time CDF was just undertaking a national study of the problems facing other children like Joey who were at-risk of placement or in out-of-home care in this country. We were outraged by the pervasive anti-family bias and gross public neglect that we were finding at all points in the placement process. In Children Without Homes, a 1979 report of that study, we documented that too frequently in the child welfare system children didn't count and families didn't count either. Little was known about who was in care and why, where they were, or how long they had been there. Case planning and periodic reviews for children were virtually non-existent. "Prevention" and "reunification" were often not even part of the child welfare vocabulary. Many children were still labeled "unadoptable." Linkages between child welfare, mental health, and other child-serving agencies were not even within the realm of the possible.

I cite some of these findings as I begin this testimony because often when we look to the future and where we want to go, it is easy to forget where we started, and how far we have come. I sincerely believe that gains have been made under P.L. 96-272, The Adoption Assistance and Child Welfare Act, and were it not for those gains the crises we are faced with today in the child welfare system would be even more overwhelming.

Thanks to your strong and persistent leadership, P.L. 96-272 has served as a catalyst for states to begin to establish a statutory and policy framework designed to strengthen families and to ensure a permanent family for every child. You will hopefully see it as your task now and in the next Congress, as we look toward the future, to take steps at the federal level to begin filling in that framework to ensure that it really benefits children like Boyd and like Daryl, from whom you have heard in earlier testimony.

Too many children and families still fail to benefit from the federal protections and services in P.L. 96-272 because workers, supervisors, foster parents, and other caretakers do not have the training, supports, or resources necessary for them to serve appropriately the children in their care. The flow of dollars still favors out-of-home care, at the expense of alternatives designed to preserve families or to prepare children in care who cannot return home for adoption or independent living. Even more importantly, however, we know that there are barriers to reform in the child welfare system that are outside the system as well as within it.

As we look to the future of child welfare, CDF believes that we should focus our energies in at least three directions. If we look only to fix the child welfare system, we will continue to be unsuccessful. In looking to the future of child welfare services we must first address the broader societal phenomena which are placing more families at-risk today; second, address how the various child-serving agencies can function together to more appropriately assess, plan for, and serve children and families in need; and third, work to retool the child welfare system at all points in the placement process so the integrity of families is supported and maintained, special needs for care are properly addressed, and young people in care are provided permanent families and adequately prepared for their transition to adulthood. CDF believes these are the challenges for the next decade.

Addressing Larger Societal Problems That Impact on the Child Welfare System

The struggles of the last eight years in individual states to implement policies and programs consistent with the framework in P.L. 96-272 have been instructive. We have witnessed in state after state a devastating assault on the child welfare system. Escalating rates of child poverty, growing numbers of births to unmarried teens, skyrocketing numbers of homeless families, growing substance abuse, a ninety percent rise in reports of abuse and neglect and now the deadly threat of AIDS -- all interrelated problems -- have placed increasing stresses on families and new demands on the system, jeopardizing its ability to serve appropriately children in need. Over a decade ago we were not even considering the impact of such problems on the child welfare system.

Child welfare directly bears the brunt of other failures in our society. Families who have no income, or no home, or need help coping with other stresses they face, often have only the child welfare system to turn to for help. This fact was dramatically portrayed in the ABC documentary, "God Bless The Child," when in the end Theresa reached out and asked that a new family be found for her young daughter Hillary after the two of them had spent many fruitless months on the streets and in shelters. But it doesn't happen only in television dramas. Earlier testimony from New York and recent reports from Florida also show homeless parents turning to foster care, and even more tragically, adoption for their children. A New Jersey study reported that approximately 40 percent of the children in the sample had entered care due to homelessness and other housing problems. Children enter care from cars, the street, shelters and hotels, and overcrowded and substandard quarters.

Lack of adequate income, even with a roof over your head, can also be the cause of great family stress. Nearly one-half of all children living in families headed by individuals younger than 25 in 1985 were poor, nearly double the rate 12 years earlier. Three out of four households headed by a mother younger than 25 are poor. Many families on Aid to Families With Dependent Children (AFDC) are at extreme risk. AFDC benefits have declined 34.9 percent in real value since 1970 and in over half the states the maximum benefit for a family of three was less than 50 percent of the federal poverty level in July 1987.

Families often have only AFDC to turn to for financial help. About half the states still do not take advantage of the federal emergency assistance program which can help families cope with housing and other financial crises that may otherwise precipitate or prolong placements. Several states, however, including California, Georgia, and Michigan, use these funds to help prevent unnecessary placements in foster care and/or to facilitate reunification of children with their families.

The burden of other societal problems on the child welfare system can also be shown. For example, in February 1987, 300 infants were in hospitals awaiting homes in New York City. Termed "boarder babies," these infants, many born to drug-addicted mothers, had to stay in hospitals although they were medically ready for discharge. The San Francisco Department of Social Services has seen a substantial influx of children under age two entering care, many of them from drug abusing parents. You heard testimony a week ago that for 70 to 80 percent of children in care in the Minneapolis, Minnesota, area, drugs are a problem in their family dysfunction.

If we are to improve the child welfare system's ability to strengthen children and families, we must continue to work to pass laws, initiate programs, and distribute resources in ways that will eradicate child poverty, ensure permanent housing for families in need, and attack the overwhelming drug problems in our cities. You need to pass H.R. 1720 this year and to consider mandating emergency assistance and next year tackle minimum AFDC benefits. Only through such measures and more sweeping reforms will we reduce the demand on the system's resources. Recognizing, however, that such reforms constitute a long range agenda, CDF believes that some short-range activities should be undertaken to help to dramatize the connections between an overwhelmed child welfare system and the problems related to child poverty and to engender greater support for dealing with their impact.

First, state child welfare agencies must be made more aware of the implications of increases in child poverty, births to unmarried teens, homeless families, and other problems for their personnel and other resources. Each state should be required under their Titles IV-B and IV-E state plans to project the impact of certain poverty-related variables on its need for beds and other services and specify its plans for meeting those demands. This generally has not been done in the past -- and, as a result, child welfare systems that had seen decreases in the numbers of children in care and reduced beds accordingly have been caught unprepared as requests for care have increased. States should also be encouraged, through fiscal incentives, to explore in greater detail the relationship between some of these societal problems and the demand for foster care. For example, states might track the housing status of children entering care for a designated period of time.

Second, Congress should also establish demonstration projects whereby states could receive funds to design special programs to alleviate homelessness, and other problems which they have identified as a cause of family break-up necessitating foster care.

Third, efforts should be made to ensure that programs addressing larger problems like substance abuse, homelessness, and AIDS that affect directly the child welfare system target a portion of their funds to families at risk of placement. For example, drug abuse funds might be used for treatment programs that could serve entire families and alleviate the need for separation of children from parents. Child welfare agencies could also use these funds for substance abuse specialists to assist in assessments of families and screening of foster parents and other caretakers.

Establishing A Single Service System For Children and Families

As we look to the future, we must look not only toward preventing the grave problems facing many poor children and families today, but toward developing a single service system that will assist families and children. Our current public child-serving systems are duplicative and fragmented. Children in one system are often ineligible for services from another. Labels are attached to children who enter public systems -- some are "abused," "neglected," "dependent" or "emotionally disturbed"; others are "runaways" or "adjudicated youths" -- but the labels tell nothing about the children's special service needs. Rather, they only indicate to which public agency responsibility for a child has fallen and the restrictions that will apply to the child's care.

In fact, children and adolescents in the child welfare, mental health and juvenile justice systems often have similar backgrounds and problems. It is estimated, for example, that upwards of one-third of the over one million children and adolescents who run away from home each year are running from physical or sexual abuse, and 40 percent from other family problems such as parental alcoholism or marital conflict. Judges polled in a recent national survey conducted by the National Council of Juvenile and Family Court Judges cited abuse in at least 70 percent of the cases they deal with, including delinquency cases. Increasing numbers of children in the child welfare and juvenile justice systems today also have serious emotional and behavioral problems. Many have multiple problems. A 1987 study prepared for the Ohio Department of Human Services looked at Ohio children living away from their parents under the supervision of state and local public agencies and found that two-fifths of the children assigned to the care of a human services, youth services, mental health, or mental retardation/developmental disability agency had problems that overlapped among departments. The assignment of children with multiple problems to the care of specific departments appeared haphazard.

During the next decade we must work toward the establishment of a single system of services for troubled children and adolescents and their families. We must look beyond the labels that get attached to these youths and address the flaws in our social services systems that deny youths the services they need until crises arise and they are taken into state care, and even then deny them the careful assessments of their needs and the services that are necessary to meet them. Our goal should be the development of a service system for vulnerable families and children that has the capacity to assess, mobilize, and utilize the resources necessary to meet their multiple needs, before youths are harmed or commit acts that are harmful to others.

There should be a single intake point where each child and family seeking help will receive a full developmental assessment that identifies his or her needs and strengths. A comprehensive system of services should incorporate the full range of intensive home-based services programs, specialized out-of-home care programs, and programs designed to help youths make a successful transition to adulthood. Case managers or therapeutic case advocates should help young people gain access to those aspects of a full continuum of non-residential and residential programs that best meet their needs and should assist them to move along the continuum as their needs change. The family should be involved fully in all services, and services should be delivered within the child's home and community whenever possible. The care and services provided should be monitored regularly to ensure continued appropriateness. A crucial part of such a system will be personnel who are appropriately qualified, trained, supervised, and compensated.

The barriers to effective system coordination are of such magnitude that the federal government cannot mandate immediately that states implement such unified service systems. However, CDF believes that there are some short-range steps the federal government should consider taking now to encourage increased interagency collaboration and service delivery and eliminate barriers which discourage such interagency efforts. They are important precusors to the establishment of a unitary service system.

There are already a number of efforts underway which lend support for new federal initiatives designed to break down interagency barriers.

- Maine, for example, has established a Bureau of Children With Special Needs and also has interagency committees working on central placement review, transition services, and dropouts and alternative education programs. The Tennessee legislature, in 1987, mandated the establishment statewide of a system of multi-agency case assessment and management teams to treat hard-to manage, multi-problem youths.

o Representatives of state child welfare and mental health agencies in over three-quarters of the states have been brought together recently to pursue joint action plans in the area of family preservation services. This interagency effort and others targeted on family preservation have been funded by the Edna McConnell Clark Foundation.

o In 28 states, the federally supported Child and Adolescent Service System Program, administered by the National Institute of Mental Health, has been a useful catalyst in encouraging cooperation among state child welfare, juvenile justice, education, health, and mental health agencies in the delivery of appropriate services to children with serious emotional problems.

As you comtemplate federal actions designed to get agencies working together, some of the following suggestions should be considered. First, states could be made eligible for higher federal matching rates for child welfare services and foster care maintenance payments once they had taken steps to facilitate interagency cooperation. They could be required to gather data for all systems on the numbers of children in various types of placements, both in and out of state, and the costs and projected costs over the next five years of such care. They could also be required to establish protocols and procedures for obtaining services from other agencies. Second, special demonstration funds could be made available to a small number of states for family preservation, therapeutic foster care, or transitional independent living programs serving children from more than one child-serving system. In states receiving such grants, the state agencies involved should be required to commit to jointly maintaining the project for at least two years after demonstration funding has ended. Third, states could be offered a higher federal match for the joint training of administrators, supervisors and workers from different child-serving agencies in permanency planning and/or family preservation activities. In order to be eligible for the higher match, however, states should be required to describe the sequence of training activities that would be provided, the nature of the training, and their plans for having staff from various agencies working together to actually deliver such services. Fourth, the reasonable efforts determination required under Title IV-E should be amended to clarify that reasonable efforts must include efforts provided by the mental health and income maintenance agencies as well as the child welfare agency. The case plan requirement in Section 475 of the Social Security Act should also be amended to specify that the plan include a description of efforts made to obtain services from the income maintenance and mental health agencies, as well as other agencies. Fifth, states could be required, as part of their Titles IV-B and IV-E state plans to specify, by agency, the numbers of children from other than the child welfare agency who will be provided care under theses programs. There should also be incentives for states to extend the protections in P.L. 96-272 to youths in other systems. Sixth, establishment of an interagency coordinating council could be made a requirement under Section 427 of the Social Security Act, with a specific listing of the functions which the council must fulfill and the authority it has to ensure joint funding and other cooperation between agencies.

Retooling the Child Welfare System

At the same time as we look toward the establishment of a single service system, we must also turn our attention to the steps that must be taken immediately to retool the child welfare system. The directions in P.L. 96-272, in our view, are the right ones. The Act's focus on preserving families whenever possible, promoting permanent families for children who cannot be returned home, and encouraging the most family-like settings appropriate for those children who do need out-of-home care has already had an important impact in individual states and communities. Misdirected fiscal priorities, inadequate and sometimes inappropriate supportive services, overworked, undertrained and underpaid staff, and the system's crisis-orientation, however, continue to make the child welfare system incapable of adequately supporting families -- birth and extended families in the first instance, and foster families and adoptive families as well. By failing to assist youths in foster care to acquire the self-confidence and skills necessary to become self-sufficient, the system is failing a next generation of families as well.

You have already heard from a number of witnesses about specific problems in the child welfare system that dramatize the need for retooling. I will just summarize some of them briefly.

- The significant increase in abuse and neglect reports -- exceeding 90 percent nationally between 1981 and 1986 -- has severely taxed even the most competent child welfare staffs and agencies. As resources for prevention and treatment have fallen further and further behind the demand, some states have redirected their efforts to crisis intervention exclusively. Larger caseloads, more cursory investigations of reports, and a reduction in the range and frequency of services provided has left too many children at risk -- both those in and out of care.

- Increasing numbers of states are reporting growing numbers of children entering care, some of them very young children. You have already heard of increases in Michigan, New Jersey, Minnesota, and Virginia. Illinois saw a 31.6 percent increase in children entering care from early 1986 to early 1987. At the same time, growing foster care caseloads and increasing expenditures have resulted in reduced efforts at preventing placements and providing effective alternatives to foster care.

- The imbalance between demand and resources has also meant inadequate numbers of staff, inadequate resources to hire and retain qualified workers, inadequate staff training and supports, and high turnover. Workers charged with protecting children's lives are frequently left with insufficient resources and support. Turnover among protective and diagnostic workers was 67 percent in New York City in FY 1986. South Dakota, where child abuse reports have jumped by 82.3 percent, reports turnover rates of 50 percent.

- Children in care today pose greater challenges to the foster care system's resources. In part due to better assessments and case planning, much more is known about the special needs of these children than in the past. But the problems are more serious too. As the needs of children entering care become more severe, it is increasingly difficult to recruit and retain skilled foster parents who have the capacity, supports and fiscal resources to meet those needs. Although good models of specialized and therapeutic foster homes exist, they have not been expanded and children continue to be in placements where caretakers lack training, specialized services, and appropriate supports.

- Inadequate resources have also impeded state progress in promoting the adoption of children with special needs -- children with physical and emotional disabilities, older youths, minority children and groups of siblings. Although many fewer children today are considered unadoptable, for many children still awaiting permanent families (and for the many families wishing to adopt them) there are still long waits, and too few supports after adoption to assist in their long-term adjustment.

- Finally, youths in foster care often lack the necessary resources to help them make a successful transition when they leave care. Of special concern are the tens of thousands of youths who "age out" of the system in their later teen years and have no one to whom they can turn. Today almost half of the children in care nationwide are teens. Without additional help too many of these young people will grow up without the physical and emotional health, educational background, and self-confidence they need to become self-sufficient adults.

Vigorous enforcement of the protections and service requirements in P.L. 96-272 could take us far in addressing many of these problems. The federal leadership and support that have been so sorely lacking these past eight years must be revived. Governors, state legislators, agency leaders and judges must be told loudly and clearly that reforms on behalf of these vulnerable youths are a national priority -- and that they all are going to be held accountable for what happens to these children and adolescents. The Secretary of the Department of Health and Human Services (HHS) should be required to communicate directly with Governors, Commissioners, and State Supreme Court Justices about the intent of P.L. 96-272 and its specific requirements. Given the complaints by both advocates and state officials about the gross inadequacies of the P.L. 96-272 compliance reviews to date, the Secretary should also be required to establish a timetable for a nationwide review of implementation of the law's protections and other mandates.

As a very first step, Congress needs to act in the next several months to put states on track in meeting the data collection mandates of P.L. 96-272 -- an area where HHS until recently has totally abdicated its responsibility. It is still not possible to do any comparative analysis of foster care and adoption data among states even on such simple issues as the number of children in care. States in their reporting to HHS still use 21 different definitions for the foster care population. However, as a result of a provision in the Sixth Omnibus Budget Reconciliation Act (SOBRA) there is hope in sight. SOBRA established a series of legislatively mandated activities with the goal of full implementation of a uniform nationwide adoption and foster care data collection system by October 1, 1991. For this process to stay on track it will be critical for the Subcommittee to review promptly the report and data collection recommendations due by July from the Secretary of HHS, and to act on any legislative changes it deems appropriate in this session of Congress. Only by keeping to that timetable will HHS be prepared to issue its final regulations by the end of the year, as required by law.

At the same time as we strengthen the framework of P.L. 96-272, however, steps must also be taken to add flesh to it in order to ensure that it will encourage appropriate supports for children and families. Today I would like to share a range of federal level activities which CDF believes could begin to move us closer to our goal. Because we look at this series of hearings as the beginning of a process for formulating specific recommendations for reform, at this time we are only suggesting directions for short-range improvements and have not tried to cover every problem area. Rather, we look forward to continuing to work with you as you develop additional proposals to make P.L. 96-272 better benefit children and families.

Family Preservation

If our goal for the future is to develop a child welfare system, and eventually a single child serving system, which supports and respects families, significant changes must be made. First, a commitment to family support and preservation will require both the availability of additional resources for these purposes and a re-direction of current fiscal resources. We know about successful models of family preservation programs. There is the short-term intensive home-based model best exemplified by the Homebuilders Program in Washington State and the Bronx. California, Georgia, Florida, Iowa, and New Jersey are also among the states that have recently developed in-home services as a component of their service systems. These programs keep families intact and are cost-effective. However, federal expenditures for foster care currently far exceed those targeted on such alternative services. State efforts, with a few notable exceptions, reflect the same skewed priorities. For example, although there was a 24 percent increase in expenditures for alternative services between 1981 and 1985, total foster care expenditures increased nearly twice as fast during the same period. Congress should explore making federal foster care funds available on a time-limited basis for intensive family-based services and other alternative services when a child is at imminent risk of placement. Congress also should expand and extend permanently the ability of states to transfer unused foster care funds for services, and require that those funds be used specifically for intensive home-based services and a broader continuum of family support programs.

Second, the "reasonable efforts" requirements [illegible] P.L. 96-272, designed to ensure that services to prevent unnecessary placements and reunify families are provided, must be strengthened. In meeting the reasonable efforts requirement, states should be required to show that a core set of services has been made available in each case prior to placement or that particular services were not appropriate. Specific judicial findings should be required regarding the services provided and their effectiveness or ineffectiveness. Without such specificity, the reasonable efforts requirement for many children will continue to mean nothing more than a judge's check mark on a preprinted form.

Third, state agencies should be required as part of their Title IV-E state plan to collect data to demonstrate the efficacy of alternative service strategies. Central to the development of a strategy for institutionalizing family preservation services is the analysis of baseline data and the establishment of goals based on these data. Such analyses are essential to ensure appropriate targeting of services and accurate estimates of cost-avoidance and cost-savings. A special analysis should be undertaken by the states of children entering foster care. At a minimum, states should be required to track the number, duration, and cost of these new placements. Intensive home-based services can prevent the need for such placements.

Quality Care for Children Needing Placement

At the same time steps are being taken to encourage more intensive efforts to support families, additional actions must be taken to ensure quality care, in the most family-like setting appropriate, for children who must be placed. First, federal initiatives must encourage the development of more therapeutic family settings for children in care. The reasonable efforts requirements and mandated case plans and reviews in P.L. 96-272 help workers learn more about the special needs of children who must be placed and the appropriateness or inappropriateness of the care they are receiving. There is nothing in federal law, however, to require that states establish a range of placement alternatives, including specialized foster homes programs, therapeutic group homes, and semi-independent living arrangements. Congress should add such a mandate to P.L. 96-272, and offer states an enhanced match for specialized placement resources. Families caring for seriously troubled youths also need access to specialized services and to 24-hour worker support. The supportive services that are essential in specialized care settings should clearly be made reimbursable as part of the maintenance payments for special needs children.

P.L. 96-272 should also be amended to provide an enhanced federal match to states for training foster parents and other caretakers, provided the state mandates both pre-service and in-service training and has an implementation plan for the training. Certain minimums requirements about the training should be specified in federal law, with further details to be specified in regulations. Currently training for foster parents and other caretakers is available at a 50 percent match under the Title IV-E Foster Care Program.

State child welfare agencies might also be provided a one-time three-year grant to establish a range of specialized care settings. Such funds could be used for outreach and recruitment and for the establishment of therapeutic foster home programs. The public agency, however, should have to commit a portion of the program resources after the first year.

Second, federal initiatives to enhance the quality of care children receive should also include efforts designed to improve their health and educational status. The placement risks for foster children are intensified by the fact that available studies show they often do less well in school than the general population and may be in poorer health as well. High rates of emotional, behavioral and developmental problems have also been documented.

Congress might request immediately that the General Accounting Office conduct a study of the education and health needs of children in out-of-home care, as well as model efforts that have been developed to improve the children's status in these two areas. Data could be collected on basic academic skill levels, school dropout rates, and high school completion rates. Inquiries could also be made about efforts to ensure educational continuity when a youth's living arrangements change and to provide tutoring or tuition assistance for special programs or classes when it is needed.

The exploration into the health needs of foster children should document procedures for obtaining basic health data, maintaining health histories, and conducting regular health examinations for them. State compliance with mandated periodicity schedules under the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) Program for Medicaid-eligible foster children should be examined. Finally, information should be obtained about what education is provided for teens in care about adolescent sexuality.

The case plan and case review requirements in P.L. 96-272 should be amended to require that they include specific information on the educational and health status of children in care, and plans for improvement in these areas. There should be additional obligations on agencies for youths in need of special educational services. Arrangements with other agencies should be noted in the plan and explored at the periodic case reviews.

Finally, states should be required to ensure that children in their care receive an initial health screening at the time of placement with a comprehensive assessment within 60 days, and periodic medical, dental and developmental examinations in accordance with the schedule of protocols for the EPSDT Program. The state should also be required to develop a medical passport for each child in care which includes the child's immunizations record, serious illnesses and/or health problems, and major medical and mental health interventions, including medications. The passport should accompany the child throughout his or her stay in foster care and upon return home, adoption or emancipation.

Staffing Improvements

Efforts such as those already described to stimulate prevention and reunification efforts and quality placements will only benefit children if significant improvements are also made in the number, quality and supports available for child welfare staff. Inadequacies in the staffing area constitute a critical barrier to bridging the gap that still exists between the policy directions intended by P.L. 96-272 and daily practice as it affects individual children and families. Workers with caseloads of 60 to 100 cases cannot provide quality service under any conditions, and even workers with much smaller caseloads cannot effectively assist families and children and provide support to foster parents and other caretakers if they are not adequately trained and supported, including ongoing supervision. High turnover rates deny children the relationships and continuity that are so essential to their future well-being.

Federal remedies in the staffing area are especially complex. Consideration has been given in the past to federal caseload mandates. These will only really benefit children, however, if states have the wherewithal to meet them and avoid the fiscal penalties which would likely even further disadvantage children. It is also unlikely that dollars merely added to existing programs will actually end up available for hiring of additional staff in individual communities. As an alternative, Congress should first consider making a designated pot of funds available to states solely for the purpose of hiring additional staff and directing that eligibility for such funds will be dependent on the development of a state plan for reducing staff-child and supervisor-staff ratios statewide or in particular areas of a state. Continued funding should only remain available to the state if it can document progress in implementation of the plan and after the first year of funding can provide a state or local match of a proportion that would increase gradually over the next several years.

Second, Congress should also mandate, as a requirement of eligibility for funds under both Title IV-B and Title IV-E, that states provide training to all staff on both a pre-service and continuing basis throughout their tenure in the system, and make such training a condition of continued employment. Federal law should mandate a minimum number of hours of training and specify specific subject areas to be covered.

Third, to provide additional supports for staff, states should be specifically allowed to claim as an administrative expense under Title IV-E the costs of establishing specialized staff support units to assist caseworkers effectively handle cases which require special expertise. The units should be staffed by specialists in the areas of substance abuse, sexual abuse, emotional disturbances, developmental disabilities, special education, and/or independent living. Workers should be provided assistance in identifying and assessing particular needs and problems in these areas and locating and obtaining necessary specialized resources or services. The units would not have direct casework responsibilities.

CDF believes that Congress has a critical role to play in the future of child welfare. Through a combination of federal fiscal incentives, mandates, and demonstrations in key areas, you can ensure that the goals of P.L. 96-272 will become reality for tens of thousands of children. The challenges are complex, and they can be overwhelming. But we know what works. We know what many of these children need. There are still thousands of Joeys and Boyds out there counting on you. We look forward to working with you this year and in the next Congress to meet the challenges of the future. Thank you.

Acting Chairman DOWNEY. Mr. Walcott.

STATEMENT OF DENNIS WALCOTT, NATIONAL BLACK CHILD DEVELOPMENT INSTITUTE, AND EXECUTIVE DIRECTOR, HARLEM-DOWLING CHILDREN'S SERVICES, NEW YORK, N.Y.

Mr. WALCOTT. Good afternoon.

My name is Dennis Walcott, and I represent the National Black Child Development Institute, and I am executive director of Harlem-Dowling Children's Services, located in New York City, which is a community-based child welfare agency that provides preventive, adoptive, mental health and foster care services.

For 18 years, the National Black Child Development Institute and its local affiliates have been advocates for black children and for their families. We believe that advocates and service providers need to focus on the ecological context of the lives of black children who come into the child welfare system; its effects on black children and families; and the ways that this system can respond to those needs utilizing a family preservation perspective.

From our work in child welfare in States across this Nation and from the various reports of the Federal Government, it is apparent that black children in the 1980s continue to be the victims in disproportionate rates of separation from their families.

In spite of the attempt to address major systemic problems in the foster care system by the enactment in 1980 of Public Law 96-272, the foster care placement rates remain high for black children.

In New York City alone, approximately 90 percent of the children who are entering care are either African-American or Hispanic-American children. Abundant evidence shows that children need a strong, stable environment if they are to flourish.

The foster care system too often does not work towards this goal, it breaks existing emotional ties without replacing them. We are concerned that the existing child welfare system tends to sever family ties unnecessarily. Children are often removed from their parents because the resources or services needed to keep the families intact are unavailable or are not adequate.

Insufficient resources and effort go into providing services which would preserve or reunify families. Once the State does take responsibility for children, the care they receive is often inappropriate, unstable and inadequate.

Again, in New York City, $400 million this past year was allocated for the provision of foster care services, while only $41 million was allowed for preventive services, a gross inequity as far as I am concerned, as far as family preservation and keeping the families together.

Despite the articulated intent of the Federal child welfare reform legislation enacted in Public Law 96-272, and the more than 1,000 child welfare laws by State legislatures since 1983, the system is not functioning as well as anticipated.

After the enactment of the law, there was a significant decrease in the number of children in foster care, but recently the number of children in out-of-home care has begun to increase significantly.

This morning, when you were questioning the Federal Government about numbers since 1985, we can tell you in New York City alone, the number in 1985 was 16,905 children in foster care. Today, that number stands at 20,500, with a projection of that number going up to 25,000 within the next 2½ years.

We are looking at a 4,000 net increase in children in care in the last two years, a gross inequity being waged against our children.

State child welfare systems are becoming increasingly pressured and overloaded because of the dramatic increase in the reporting of abuse and neglect cases, fiscal restrictions, organizational resistance to the new focus of services, and the class action lawsuits challenging a variety of State child welfare practices.

While Federal initiatives provided that States redirect their system to a more family-based approach and provided a blueprint for reform by enacting 96-272, little guidance has been given to the States by the Federal Government as to the most efficient and effective means of implementing many of the requirements of the law.

Federal regulations interpreting the various provisions of the law have been issued too slowly and are often too vague to provide concrete guidance to States. Some of the fiscal incentives to the States have lost their effectiveness because of Federal budget cuts, delays, and the results of Federal audits of States for compliance with the law.

Again, the Federal law provides little guidance as to what specific services should be provided to families. We believe a new pattern is emerging within the child welfare system as States attempt to comply with the law:

One, a child comes into the system; two, inadequate services are made available or provided to the family; three, the child is returned to his home; four, only to return to the foster care system in a short period of time.

Although services were provided to the family, the services were not adequate and the child was returned to a home that had the same existing problems that were the original reasons for removing the child from the home. Nothing had changed.

Our children are on a vicious treadmill of self-destruction. Federal legislative expectations must become more specific in order for State and local agencies to be aware of their responsibilities in providing defined basic services. There must be a requirement that, at a minimum, standard basic services must be provided before children are removed from their homes.

In addition, each State should be required to specify in its State plan a comprehensive range of preventive and reunification services that will be made available to families. Additional incentives should be provided to States that implement identified home-based services such as: Emergency caretakers and homemaker services; day care; crisis counseling; emergency shelters, emergency financial assistance; respite care; housing; food; transportation; and intensive, short-term, family-based services, known collectively as family preservation services. The family preservation services are intensive, short-term, home-based services that offer the most promising alternative to foster care.

The future goal of child welfare continues to be the provision of services at a level sufficient to keep families together and the mobilizing of States to develop family-based child welfare public policy.

The new emphasis is on providing realistic, lasting, permanent homes for children.

The problems with which the children in the child welfare system and their families are experiencing must be given priorities in any social planning because their problems are major social problems that play an important part in social, community and family disintegration.

Unity of effort is required to overcome the root causes of problems connected to foster care, juvenile delinquency, chronic poor health, unemployment, racial/ethnic discrimination, lack of educational opportunities, homelessness, hunger and unsanitary housing; all of these factors that contribute to the children being placed in foster care.

We should eliminate parochial attitudes on the part of child welfare practitioners and develop a cooperative, community-based philosophy on addressing the survival issues faced by our children and families.

The effective operation of the child welfare system requires the cooperation of the Federal, State, local governmental agencies, schools of social work and the voluntary agencies throughout the system.

The major issues in child welfare, permanency planning, family preservation, and foster care, are the concerns for all levels of the government. Other issues such as decreased resources; increased complexity and number of reported cases of child abuse; insufficient staff to handle child welfare caseloads; prevention and early detection of child abuse; teen pregnancy and infant mortality; uniform services at local level and interagency service coordination; reform of juvenile court system; and provision of adequate day care are shared concerns of child welfare policymakers, agency administrators, service providers, children and families and local communities.

Without guidelines and extensive, adequately funded service programs for the family, some of the major issues facing the child welfare system today may continue to be the major issues of the approaching 21st century.

The plight of these children, our children, my children and your children must be our greatest national priority. There are programs out there that work. I am executive director of a program I feel that works by applying a community-based strategy involving the various theories and systems in the system so we provide a coordinated attack to helping families stay together and resolving the issue of foster care.

That concludes my testimony. Thank you very much.

[The statement of Mr. Walcott follows:]

STATEMENT OF DENNIS WALCOTT, NATIONAL BLACK CHILD DEVELOPMENT INSTITUTE, AND EXECUTIVE DIRECTOR, HARLEM-DOWLING CHILDREN'S SERVICES

On behalf of the National Black Child Development Institute (NBCDI) I would like to thank you for the opportunity to present testimony before this joint hearing on foster care, child welfare, and adoption reforms. My name is Dennis Walcott and I am the President of the New York affiliate of NBCDI. I am also the Executive Director of Harlem-Dowling Children's Services in New York City, New York.

For 18 years, the National Black Child Development Institute and its local affiliates have been advocates for Black children and for their families. We believe that advocates and service providers need to focus on the ecological context of the lives of Black children who come into the child welfare system; its effects on Black children and families; and the ways that this system can respond to those needs utilizing a family preservation perspective.

From our work in child welfare in states across this nation and from the statistical reports of the federal government, it is apparent that Black children in the 1980's continue to be the victims in disproportionate rates of separation from their families. In spite of the attempt to address major systemic problems in the foster care system by the enactment in 1980 of P.L. 96-272, the foster care placement rates remain high for Black children.

Abundant evidence shows that children need a strong, stable environment if they are to flourish. The foster care system too often does not work towards this goal, it breaks existing emotional ties without replacing them. We do not argue that foster care is unnecessary -- even if preventive services designed to preserve families were readily available and adoptions ensured to all children whose biological family ties had been severed, the need for foster care would remain. Nor do we maintain that there is no good foster care: a stable caring family or group living situation can be desirable for children whose families are in crisis. Instead, we are concerned that the existing child welfare system tends to sever family ties unnecessarily. Children are often removed from their parents because the resources or services needed to keep the families intact are unavailable or are not adequate. Insufficient resources and effort go into providing services which would preserve or reunify families. Once the state does take responsibility for children, the care they receive is often inappropriate, unstable, and inadequate.

Intent of Public Law 96-272

Over the past eight years, child welfare public policy has undergone considerable change. Much of this change has occurred because of the increasing attention that has been focused on the plight of the children in foster care and the concept of replacing routine foster care for children from troubled families with a more comprehensive approach involving permanency planning for children. Historically, when a child was abused, neglected, or in need of care and supervision, the child was removed from his home by the state and placed in foster care. Policymakers began to increasingly recognize the potential for troubled families to care for and raise their own children if supportive services were made available that enabled them to cope with stressful situations.

The enormous cost of long-term foster care in addition to the traumatic impact on children of prolonged and unnecessary foster care prompted the federal government to enact the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) which revised the federal laws regulating and funding child welfare services. The act provided financial incentives for states to reform child welfare systems by redirecting state child welfare systems from functioning in ways that encouraged family disintegration, while failing to provide the children in the system with stable, substitute home environments; to a more family-based approach that encouraged permanency planning, with family preservation the goal in most cases. Permanency planning incorporates the idea that every child has a right to a stable home environment.

Despite the articulated intent of the federal child welfare reform legislation enacted in P.L. 96-272, and the more than 1,000 child welfare laws passed by state legislatures since 1983, the system is not functioning as well as anticipated. After the enactment of the law, there was a significant decrease in the number of children in foster care, but recently, the number of children in out-of-home care has begun to increase significantly. It is estimated that more than 300,000 children are presently in state foster care systems across the country. In New York City, approximately 19,500 children are in the foster care system.

State Implementation of Public Law 96-272

State child welfare systems are becoming increasingly pressured and overloaded because of the dramatic increase in the reporting of abuse and neglect cases, fiscal restrictions, organizational resistance to the new focus of services, and the class action law suits challenging a variety of state child welfare practices. While federal initiatives provided that states redirect their system to a more family-based approach and provided a blueprint for reform by enacting 96-272, little guidance has been given to the states by the federal government as to the most efficient and effective means of implementing many of the requirements of the law. Federal regulations interpreting the various provisions of the law have been issued too slowly and are often too vague to provide concrete guidance to states. Some of the fiscal incentives to the states have lost their effectiveness because of federal budget cuts, delays, and the results of federal audits of states for compliance with the law.

The new priority and focus of providing services should reduce the need for placing large numbers of children in foster care. Yet the actual provision of comprehensive, adequate, realistic family-based services, which is critical in any effort to reduce the excessive and inappropriate use of foster care, has not been put into actual practice by most states. If such services were in place, it would be necessary to remove a child from his home only in an emergency or extreme situation and usually the family could be reunited in a short period of time. Even though P.L. 96-272 requires that each state have a system-wide plan for prevention and reunification services, the nature and scope of services vary widely among states and few state statutes specifically define and authorize foster care prevention and family reunification services. At least 42 states have general statutes authorizing "services" for children and families.

Again, the federal law provides little guidance as to what specific services should be provided to families. We believe a new pattern is emerging within the child welfare system as states attempt to comply with the law; (1) a child comes into the system (2) inadequate services are made available or provided to the family, (3) the child is returned to his home, (4) only to return to the foster care system in a short period of time. Although "services" were provided to the family, the services were not adequate and the child was returned to a home that had the same existing problems that were the original reasons for removing the child from the home - nothing had changed.

Recognition of the importance of the family, even a troubled family, to a child's healthy development, along with advancement of new in-home treatment technologies, and the knowledge that expensive long-term, out-of-home placements decrease when families with children at imminent risk of placement are provided alternative services, have not provided the impetus necessary for development of comprehensive family-based service systems by a large number of states. Vague, general statutory provisions and implementing regulations will not provide the necessary impetus for states to aggressively implement family-based services, but as we look at the facts, figures, and statistics of the child welfare system, we know that the child welfare system must begin to provide realistic and workable services.

Future Federal Legislation

Federal legislative expectations must become more specific in order for state and local agencies to be aware of their responsibilities in providing defined basic services. There must be a requirement that, at a minimum, standard basic services must be provided before children are removed from their homes. In addition, each state should be required to specify in its state plan a comprehensive range of preventive and reunification services that will be made available to families. Additional incentives should be provided to states that implement identified home-based services such as: emergency caretakers and home maker services; day care; crisis counseling; emergency shelters; emergency financial assistance; respite care; housing; food; transportation; and intensive, short-term, family-based services, known collectively as family preservation services. The family preservation services are intensive, short-term, home-based services that offer the most promising alternative to foster care.

The foster care population is growing older. In 1984, over half of all children in substitute care were estimated to be 11 years or older, but only 23 percent of adopted foster children were in this age range. Since older children are frequently difficult to place in adoptive homes, the child welfare system must remove the barriers that prevent the use of alternative forms of long-term care such as guardianship or permanent custody, independent living, and emancipation.

The future goal of child welfare continues to be the provision of services at a level sufficient to keep families together and the mobilizing of states to develop family-based child welfare public policy. The new emphasis is on providing realistic, lasting, permanent homes for children.

Prevention and reunification services continue to have great potential for preserving families and promoting the well-being of family members. Even families that apparently are without skills and with multiple problems can learn new ways of coping.

Federal and state legislation must play a crucial role in preserving many of the families at risk of having a child removed from the home. Statutory initiatives must provide specific direction to the courts and child welfare agencies. While there has been a shift in service emphasis in some states, the type and scope of prevention or reunification services a family will receive will vary among states.

Future Social Planning and the Community

The problems which the children in the child welfare system and their families are experiencing must be given priorities in any social planning because their problems are major social problems that play an important part in social, community and family disintegration. Unity of effort is required to overcome the root causes of problems connected to foster care, juvenile delinquency, chronic poor health, unemployment, racial/ethnic discrimination, lack of educational opportunities, homelessness, hunger and unsanitary housing; all of these factors are social in nature. The goal should be to lessen the need for child welfare services at its source - the social structure.

Over the past decade, through a constant outpouring of facts, figures, and statistics, everyone has been bombarded with news of the social changes and ills affecting our community. In the 1980s, it appears that discouragement about the future for our children has spread widely through America. The drug epidemic, homelessness, AIDS, crime, poverty, economic shifts, environmental crises, and a list of other ills too numerous to mention, seem more and more out of control. These social problems have contributed to some erosion of community life; and the fabric of community relatedness and unity seems dangerously threadbare and frayed.

Some sociologist contend that we live in a culture of brokenness and fragmentation and that it is easier to be concerned only with the individual; that the vision of communoty oneness and unity is too difficult. People in a disorganized community often believe they are facing "personal troubles" when their problems are really symptoms of social issues. They do not understand the interplay of these personal troubles with problems occurring in the social structure - the society. Child welfare policy makers and practitioners must recognize that an organized community can be an effective resource in assisting children and families in the child welfare system.

Conclusion

The effective operation of the child welfare system requires the cooperation of the federal, state, and local governmental agencies, in addition to the provision of services. The major issues in child welfare, permanency planning, family preservation, and foster care are the concerns for all levels of the government. Other issues such as decreased resources; increased complexity and number of reported cases of child abuse; insufficient staff to handle child welfare caseloads; prevention and early detection of child abuse; teen pregnancy and infant mortality; uniform services at local level and interagency service coordination; reform of juvenile court system; and provision of adequate day care are "shared" concerns of child welfare policy makers, agency administrators, service providers, children and families, and local communities. Without guidelines and extensive, adequately funded, service programs for the family, some of the major issues facing the child welfare system today may continue to be the major issues of the approaching Twenty-First century.

STATEMENT OF DAVID S. LIEDERMAN, EXECUTIVE DIRECTOR, CHILD WELFARE LEAGUE OF AMERICA

Mr. LIEDERMAN. I am David Liederman, executive director of the Child Welfare League of America. I will speak briefly about a few matters which I hope will be enlightening.

I want to thank both of you for your efforts. We appreciate your advocacy. Thank you.

I want to talk about the numbers of children in foster care for a minute. It is clear to us from everything we hear from our 500 agencies that the foster care population is rapidly on the increase. Dennis gave the numbers from New York where there has been about a 30-percent increase over the last 3 years, and all the reports I get from Los Angeles and other major urban areas in California indicate the same is true. If the two largest States in the country are showing dramatic increases, you can be sure that the increase in the number of children is true for the system as a whole.

I think the 274,000 number used by HHS from 1985 is misleading, because that is the number of kids in care on any given day in that year. If we include the number of kids entering the foster care system, we are likely talking about half a million children who come through the foster care system in any given year.

So, we are concerned about a lot of kids who are hurting and who come into the system because of abuse and neglect and other reasons that affect their lives.

We did a study in December of 15 counties and asked who were the kids they were having problems placing and serving. There were two groups that stuck out. The first group were adolescents. Every county indicated that they had problems placing adolescents, and there was a lack of adequate services for these kids and a lack of effective programs.

The second group is a new group, a group of babies and infants who are coming into foster care. They are coming into the child welfare system in large numbers, particularly on the east coast in New York, New Jersey, and Florida, and on the west coast in California.

In those four States, there has been a dramatic increase in the number of infants and babies coming into the system, children of drug addicted moms, children with AIDS, children with all kinds of medical problems that are posing a major challenge to the child welfare system. How to address the needs of these children.

We do have a crisis on our hands, and you have mentioned all the problems, homelessness, poverty—I won't go through the statistics, because your work has been as good as any in letting the country know what the problems are.

We need a major national initiative for children. We need to strengthen Public Law 96-272, which in theory is an excellent law. We were part of the effort, and we did our little bit to make it law.

But we do think Public Law 96-272 needs to be strengthened. We know what works. The sad part, the part that gets you really angry, is that we know some of the things that work. I don't think we have an answer for every child in this country that has a problem or for every family, but we have a lot of answers.

For the past several years, the League has been working with a group of 20 agencies throughout the country in what we call our Family Preservation Network. These are agencies that have been actively involved in providing intensive family support services.

It is not the kind of case work that many of my colleagues in social work and I learned when I was in social work school. It is not one hour a month in an office. This is intensive family support work that goes on for several hours a day in a short time frame. It is intensive work with families to try to change behavior, and to try to make things go better in the family.

We have been collecting some data about the families receiving family preservation services from agencies in the network. This is data as recent as January of 1988 collected and analyzed for 182 families with 517 children.

Of the 517 children, 224 were at risk of placement, and in over 80 percent of the cases, either the decision had been made to remove the child or the public agency was threatening to remove the child.

Over two-thirds of the children had been abused, neglected, or both, by their parents; 56.9 percent live in single-parent households. One-fourth of the parents abused alcohol or drugs or both.

Eighty percent of the families were identified as low-income working poor or very poor. In fact, over half of the families were described as very poor.

Almost 40 percent of the families live in a dangerous environment. One of our member agencies, the Council of Voluntary Child Care Agencies in New York, recently found that over 400 kids had entered the foster care system in New York City because of a dangerous living environment. (They couldn't find good housing and the workers said they could not in good conscience keep the children in their families.)

These are not ideal conditions in which to try to prevent a foster care placement.

However, with an average of only 68 days of intensive family services, 92 percent of these children were able to remain in their families and over three-fourths, 77 percent of their siblings who were already in foster care were able to return home because of the intensive family support work that was done by the agencies that were studied.

I think we are kidding ourselves if we think that a child protective service worker can do any kind of casework with caseloads of 40, 50 and 60. In Maryland, Ruth has a program that she has developed in Maryland, an intensive family support program, which I want to commend because she is too modest. They have developed teams of a caseworker and a parent aid who have caseloads of six, six families to a team of one caseworker and one parent aid.

When you get to those kind of numbers, you can do something in a family. You might not conquer the world, but you can change some behavior and move things along. I want to add how important it is that we institutionalize intensive family support services all over the country.

We have been working with public agencies—we recently brought a group of 20 public agencies together, county and State agencies to try to help them to institutionalize family support programs in their jurisdiction. Every State and every county that is responsible for working with children, should have an intensive family support program that is a part of their overall child welfare program.

The response from the public agencies has been terrific. They want to do it and to learn more about it. While they need financial help the will is there. As much as we are trying to strengthen preplacement services, we need to also strengthen the program of out-of-home care for the kids who need that service.

Let us remind ourselves that however well we do strengthing the family, there are going to be some kids, because of their circumstances, because the home they live in just can't be put together, because there isn't a home to go back to, because they have emotional or physical problems that are so serious that they need out-of-home care—out of home care is reality for a certain percentage of the kids in this country—which says to us and our agencies that we need to strengthen family foster care, we need to strengthen residential care so that it is of high quality, and we need to look at both these programs as family support programs, because that is what they should be.

When we remove a child and place the child in family foster care, we should not forget about the family from which we just removed the child. The caseworker needs to go back to that family, work with that family, try to prepare the family for the return of the child, because after all, the goal is reunification and we need to try to make this happen as best we can.

Sue Dondiego is here. She will speak more about strengthening foster care—let me say one more thing—it is time that we thanked all of the foster parents in the country who are providing good care to children who are hurting.

We don't thank them enough, support them enough, we don't even know what they are. We don't know whether they work as part of the child welfare system, are they on or off the team, do we provide benefits or don't we provide benefits—we haven't figured out who they are, and how to treat them.

I think we need to do better in this area. In the area of residential care, one of our agencies, Children's Village, an outstanding residential care program, has had a family support program called Project Impact. The whole purpose of the program is to do parent education, systematic family group therapy through community-based parent support groups to prevent abusive behavior by the families of the children who were removed from the family and are now in the residential facility.

Children's Village works with the families because they understand that even though the kids are in residential care, that they have a responsibility to provide family support services to the families who were doing bad things to the kids, to help those families change their behavior.

I will tell you, because I know almost every agency—our agencies are committed to improving the quality of residential care, are committed to working with the families to try to make that link. They understand what needs to be done, and they are willing to do it, but we need additional resources. I ask your help in a couple of areas.

I think we need to change title IV-E a little bit. I think training for all foster parents should be a reimbursable expense not as it now is, just limited to state personnel. I don't know why we don't do that.

I think IV-E needs to be expanded the fund preplacement family support services. We think IV-E is the program that not only ought to provide for the care of the kids who require out-of-home care, but also ought to provide the significant money needed to keep families together.

Intensive family support services cannot completely be funded under IV-B because the states do not get enough money. Unless we take the cap off IV-B and change the nature of the relationship between IV-B and IV-E. If we are going to do what Ruth has done in Maryland and other States and counties are willing to do in developing intensive family support programs, we need entitlement money to come out of IV-E.

I think we should use IV-B for a whole range of services for families who are not at imminent risk of removal. I think IV-B ought to be the real primary prevention service program that exists in this country.

We also need more money in title XX because title XX is the backbone of the social service program in this country. I don't have to give you the numbers. You know them. You have been trying to increase the authorization and thank you for that.

Clearly, we need more dollars if we are to implement progress on this work.

Thank you.

[The statement of Mr. Liederman follows:]

STATEMENT OF DAVID S. LIEDEMAN, EXECUTIVE DIRECTOR, CHILD WELFARE LEAGUE OF AMERICA

Good Morning Mr. Chairmen and other distinguished members of the panels. My name is David Liederman and I am the Executive Director of the Child Welfare League of America. We commend the work of these Committees in conducting oversight hearings on the foster care program and, in particular, your desire to assure that the program appropriately addresses the needs of the children and families to whom the system must respond. We appreciate the invitation and opportunity to appear before you to express our views on these issues and to suggest ways in which we believe some of the needs might best be addressed.

The Child Welfare League of America, established in 1920, is the only national voluntary organization and standard-setting agency in the child welfare field. The League is comprised of 500 public and private voluntary non-profit member agencies and 1000 affiliates who provide various child welfare services to children and their families throughout North America. Such services include home-based intensive family counseling, day treatment, child day care, foster family care, residential treatment, group homes and adoption.

For several weeks now, you have heard from various witnesses having some relationship to the foster care system. Of the many remarks made throughout the hearings, there are some broad themes with which we would like to associate ourselves and upon which our testimony is based:

o In theory and construct, P.L. 96-272 is an excellent law. Its mandates with respect to "permanency planning" -- pre-placement prevention, reunification, and permanent placement services, case planning and periodic reviews — have positively impacted the foster care system, moving it more in the direction of family-focused treatment and guaranteed protections for children in care.

o However, much remains to be done. There is a serious lack of funding, both federal and state, to adequately provide the necessary range of family support care envisioned in P.L. 96-272, particularly with respect to pre-placement and reunification services. In addition to family support, "system support" such as foster parent training, is also critically needed.

o Relative to eight years ago when P.L. 96-272 was enacted, the children and families for whom CWLA agencies are struggling to provide services are more severely disturbed, far more dysfunctional and present more multi-problem needs. Family and child stress is often now connected to a whole range of problems, such as unemployment, poverty, substance abuse (drug and alcohol/parent and child), nutrition, health, homelessness, community violence (drug dealing and street gangs) and family violence. Family counseling around "effective parenting" is no longer all that is necessary; "treatment" is far more complex and solutions are far more difficult to reach.

o There are numerous systems external to foster care or child welfare which, in theory exist to support many of the problems identified above. However, due to the lack of coordination among the various systems, the foster care/child welfare/social service system has become the primary provider when, for example, mental health, education or employment service systems would be more appropriate.

Building on these themes, CWLA makes the following recommendations, which are detailed in our testimony:

(1) More funds must be provided to support the basic principles of P.L. 96-272. Evidence exists that where intensive family support is provided, inappropriate foster care is avoided and that where foster care is necessary, family support services help to reunify the family as quickly as possible. Once the family is reunited, "after-care" services are critical to insure ongoing family functioning. Title XX Social Services Block Grant and Title IV-B Child Welfare Serivces must be increased to help provide an adequate range of family support services designed to meet the continuum of permanency planning services.

(2) Greater flexibility should be provided under Title IV-E Foster Care to allow for the funding of pre-placement services and other activities consistent with "reasonable efforts", for a limited period of time, when it can be demonstrated that the child is at "imminent risk" of removal. Title IV-E should also be allowed, for a limited period of time, to fund "partial maintenance" or after-care services once the child has returned home.

(3) Training of foster parents and staff of child care institutions should be recognized as a Title IV-E training cost, similar to the Title IV-E training provision for state agency personnel.

(4) Coordination among existing services and programs must be systematized to assure that the needs of children and youth in foster care are adequately and completely met.

MORE FUNDS MUST BE PROVIDED TO SUPPORT THE BASIC PRINCIPLES OF P.L. 96-272: Throughout its history, CWLA, through its standards, training, consultation services and publications, has been committed to the development of quality services to support the full continuum of care. This continuum parallels the permanency planning objectives of P.L. 96-272 and includes: services to strengthen families in their own homes; out-of-home care (foster family, group homes and residential treatment); and permanent adoptive placements. While family support services are obviously intrinsic to the first and last part of the continuum, they often are not identified as being part of out-of-home care. However, as discussed in a recent Draft Report (May 1988) prepared by CWLA's Out-of-Home Care Task Force,

> "Agencies providing out-of-home care services within the child welfare system, serve a critical role in providing opportunities for child growth and development, as well as in providing necessary care, protection and support to children and their families. The purposes of out-of-home care services can be described as follows:
>
> - To assist the family to establish or reestablish its appropriate responsibilities by supporting family reunification;
> - To offer both a child and family an opportunity to disengage and thus allow time for each to assess and clarify the most appropriate option which will best insure the child's potential for maximum growth and development;
> - To provide a safe, nurturing, protective and therapeutic environment during the period when a child cannot be safely cared for in his/her home;
> - To help the family focus on its strengths and an opportunity to reduce or eliminate those inappropirate behaviors or conditions in the family and or the child which have been barriers to successful family life;
> - To meet the special needs of children, e.g., developmentally disabled, emotionally disturbed, physically handicapped;
> - To prepare the child and family for reunification, if feasible, or for another permanent family, if warrented; and,
> - To prepare the child for emancipation when reunification or adoption is not possible or not in the best interest of the child."

Using examples from CWLA agencies or special projects, we would like to briefly outline the way in which family support services play a critical role throughout the continuum of care.

Families and Children At Imminent Risk of Out-of-Home Placement: For the past several years, CWLA, through a grant from the Edna McConnell Clark Foundation has convened a group of up to approximately 20 agencies located throughout the country known as the Family Preservation Network. The purpose of the Network has been to identify and develop strategies of effective crisis intervention work at the point at which a child is at imminent risk of removal from the home. These agencies represent several models from the Homebuilders model to a mental health based family therapist model to teams of social workers and parent aids to parent-partner models where the emphasis is on building parent support groups that continue after intervention.

Family Preservation Services are unique in that they are time-limited, intensive (available to clients 8 or more hours per week), home-based, address the family as a unit rather than work with parents and children as separate clients, and, caseworkers are routinely available by phone or visit 24 hours a day rather than restricted to business hours and weekdays. Also, services are provided at the point of crisis since it has been demonstrated that this is time when families are most open to changing behavior knowing that they are about to lose their children. Family Preservation Services are premised on the belief that families want to and are capable of modifying the behavior giving rise to the crisis and build on the strengths of the family.

For the past two years, CWLA has been collecting data on families receiving family preservation services from the Network programs. As of January 1988, data had been collected and analyzed for 182 families with 517 children. Of those 517 children, 224 were at risk of placement.

o In over 80% of the cases, either the decision to remove the child had already been made, or the process of removal had begun, or the public agency was threatening to remove.

o Over two-thirds of the children had been abused, neglected or both by their parents.

o Well over half (56.9%) lived in single parent households.

o Over one-fourth of the parents abused alcohol or drugs or both.

o Over 80% of the families were identified as low income working poor or very poor; in fact, over half (52.2%) of the families were described as very poor.

o Almost 40% of the families lived in a dangerous physical environment.

These are certainly not ideal conditions under which to try to prevent a foster care placement. However, with an average of only 68 days of intensive family services, 92% of these children were able to remain with their families, and over three-fourths (77%) of their siblings who were already in foster care were able to return home.

A grid is available, for the record, of the various programs outlining the differences among these family preservation models.

Family Support in Out-of-Home Care: The Children's Village, Dobbs Ferry, New York, provides residential treatment to 314 boys ages 5-16 who have been removed from their homes and sent to the Village because of serious emotional problems that require treatment services and 24-hour supervision. The most common reason for removal from the home is child abuse or neglect. Project IMPACT was designed by the Village to test a new method for preventing abusive behavior and for treating families at risk. By testing this method within the context of residential treatment, two other outcomes are sought: (1) a reduction in the need to remove other children from the home (i.e., siblings of the child already in placement) and (2) a reduction in the length of stay of children already in placement.

The program combines three different modes of treatment -- parent education, systemic family group therapy and community-based parent support groups -- to provide families with child development information and management skills, experience in asking for and receiving support from parents in similar situations, and practice in establishing support networks. The program has three phases: (1) Pre-Treatment Evaluation Phase where the program is described and evaluation testing is completed; (2) Treatment Phase which consists of 11 two-hour treatment sessions (the first 7 are parent education sessions and 8 through 11 include topics such as the parents' own experience as children, frustrations of being a parent, and parents consulting with one another regarding the treatment of specific parent-child problems. Sessions 12 through 13 focus on consolidating the parents' group as an independently functioning unit. (3) Post-Treatment Evaluation Phase consists of post evaluation testing and a community outreach specialist is assigned to serve as a liaison between parents and community resources.

Evaluation results reveal that the majority of parents involved learned more about themselves, came to value themselves more and began to see each other as resources and obtained helpful information regarding child development and child management. At the conclusion of treatment, parents were no longer significantly at risk for child abuse. Had these parents not become involved, their children would have been at risk of being subjected to continued physical and/or emotional abuse if they returned home, or they might have had to be legally freed for adoption with limited real prospects for any other permanent home. As such, Project IMPACT enabled these parents to become recommitted to the care of their children and the children were able to return home.

Children In Need of Permanent Adoptive Families: Despite the success of the Title IV-E Adoption Assistance Program, 36,000 children with special needs are waiting to be placed in adoptive homes. Of this number, 42% are minority, 37% are handicapped, the median age is 12 and 68% have been in foster care for 2 or more years. Many of these children came into the system through foster care and some have come into the system because their adoptive placement has either disrputed (prior to finalization) or dissolved (after finalization.) For this latter group of children, many of the agencies in the Family Preservation Network are providing intensive family crisis services with the goal of maintaining or keeping the adoptive family together. One such program, Families First, Inc. in Portland, Oregon, uses the family preservation model of intensive home-based counseling at the time of crisis, based on the premise that people can change and learn to take charge of their families and lives. Adoptive parent support groups is one of the components cited as why the services have been effective.

For the children who are in foster care and waiting to be placed with an adoptive family, the first need is to recruit and identify families who are willing to adopt. This is particularly critical for minority children who tend to wait a disportionate length of time to be placed in a permanent home. There is much evidence that where targeted, comprehensive efforts are made, homes for minority children are found, surprisingly, often without great difficulty. Once families have been identified there is a critical need for family support services to help with placement, attachment, and bonding issues and to insure that the family and child are well suited to one another.

According to the Draft Report prepared by CWLA's Out-of-Home Care Task Force, (previously mentioned) today's child welfare system has great difficulty responding to the range of needs along this continuum of care. The traditional child welfare services of protection, out-of-home care, and adoption services cannot keep pace with the rising demands made of them. Underlying the difficulties which child welfare agencies experience are four major factors which must be addressed if the system is to become more effective.

First, the system responds only to crises and can do little to prevent the difficulties which families bring to it. Linked to this, the system now is confronted with an ever increasingly difficult group of clients and does not have the resources necessary to address all of these increasingly complex needs. Second, there is no child welfare continuum but rather a fragmented collection of services, lacking the integration and cohesion necessary to address the increasingly difficult responsibilities assigned to it and forcing the components that are in place to be inappropriatedly used as an overcompensation for those that are missing. Third, the categorical nature of the system's organization and financing make it difficult to create a single comprehensive, community based system which can holistically address the range of issues facing children and their families. And, fourth, the system is created upon and uses an approach which is based upon a deficit model, emphasizing the problems inherent in the children and their families.

For the short-term, CWLA recommends that an infusion of funding is critical to help develop and shore-up the models of family support services that we know work throughout the continuum of care. Three specific suggestions include:

Title XX Social Services Block Grant and Title IV-B Child Welfare Services must be increased. As these Committees well know, P.L. 96-272 recognized the importance of both of these programs in enabling states to provide the range of permanency planning services. With respect to Title XX, P.L. 96-272 authorized increased funding ceilings every year up through FY 1985 when funding was to have reached $3.3 billion. Due, however, to cuts in the program as a result of the Omnibus Budget Reconciliation Act of 1981, Title XX funding was reduced in FY 1982 to $2.4 billion (from $2.991 billion in FY 1981). Today, seven years later, funding for Title XX has risen only by $300 million, to $2.7 billion. Representative Barbara Kennelly (D-CT) has introduced H.R. 1365 which seeks to remedy this by increasing Title XX funding to $3.3 billion in FY 1988 and each succeeding fiscal year. We strongly urge the Public Assistance and Unemployment Subcommittee to favorably report out H.R. 1365 in order that some assistance might be provided in the funding of services necessary to help further the permanency planning efforts envisioned in P.L. 96-272.

However, while Title XX would clearly help in addressing some of these needs, since it is now a block grant, it could not be expected that such an increase would be fully applied to these necessary services. Title IV-B Child Welfare Services, however, does provide this assurance given its specific authority to fund the full range of permanency planning services. Title IV-B is now funded at $239 million, a level close to its authorized level of $266 million. CWLA urges that consideration be given to increasing Title IV-B's authorization, provided that assurances be made that the additional funds (over $266 million) be specifically directed at pre-placement prevention services, reunification services, and services to facilitate permanent adoptive families for children in foster care who are legally free for adoption.

In addition, we would urge that consideration be given to providing greater flexibility of Title IV-E Foster Care to allow for the funding of pre-placement prevention services and other activities consistent with "reasonable efforts" for a limited period of time, when it can be demonstrated that the child is at "imminent risk" of removal.

We would also suggest the use of Title IV-E funds to help support reunification efforts, such as for after-care or "partial maintenance" support consisting of four-to eight-hour day treatment programs. This concept has been advanced by a CWLA member from California, the California Association of Services for Children, which represents over 60 voluntary non-profit child caring agencies who provide care for approximately 30,000 children throughout California. CSC reports difficulty in funding reunification services in that during the transition period, when they attempt to transition a child back home, the child is no longer considered to be placed or "in the system." In fact, the child and family is still very much a part of the system in that agencies are still involved in providing care to them to insure that the child stays in the home. And yet, a disincentive exists in trying to make the transition because no funding exists to support such after-care services. Accordingly, CWLA urges greater flexibility in the use of Title IV-E funds to support both pre-placement and reunification services.

TRAINING OF FOSTER PARENTS AND STAFF OF CHILD CARE INSTITUTIONS SHOULD BE RECOGNIZED AS A TITLE IV-E TRAINING COST, SIMILAR TO THE TITLE IV-E TRAINING PROVISION FOR STATE AGENCY PERSONNEL: In December of 1987, CWLA conducted a survey of its member agencies in 15 counties randomly selected from the 55 most populated counties in the United States to identify the child populations for whom it is difficult to find foster family care and to explore why finding foster family homes for these children is difficult. Among the findings were:

o Finding foster homes for adolescents is a national problem. In contract, finding foster homes for medically fragile infants is primarily a problem on the East and West coasts.

o Reasons identified for the shortage for foster family homes are increasing difficulties in recruiting and retaining foster families; more difficult children, specifically adolescents, are in the foster care system; and administration and financing problems.

Therefore, although P.L. 96-272 requires that children who are removed from their homes should be placed in the least restrictive settings, the shortage of foster homes has made this difficult, if not impossible, to achieve for some of this country's most vulnerable children and youth.

Among some of the recommendations having public policy implications were:

o CWLA should work toward the establishment of more uniform board rates across the nation since lower board rates in some states make recruiting foster family homes difficult.

o CWLA should develop and disseminate education and training materials for use by agencies in training foster parents, which would greatly enhance agencies' abilities to prepare and retain foster parents.

Title IV of H.R. 2753, a bill introduced by Representative Bob Matsui (D-CA) would take the first step in addressing uniform board rates and a giant step in insuring that foster care providers -- foster parents and staff of child caring institutions -- are adequately trained.

Sec. 401 would add a new state plan requirement for the training and retraining of foster parents and staffs of child caring institutions, as a condition of licensing. The cost of such training would be federally reimbursed to states at 75% rather than the current administrative rate of 50%. Sec. 402 would amend the current state plan requirement for periodic review of states' foster care maintenance payments by providing that, in conducting such reviews, full consideration shall be given to increases in the cost of providing foster care and in costs related to the care of children with extraordinary physical or mental health care needs. This section would also require the Secretary of HHS to, no less than once every two years, collection information from the states on the levels of foster care maintenance payments paid in each state and disseminate such information to the states.

With respect to the training provision, as statedin testimony provided by the New Jersey Foster Parents Association during a CWLA sponsored legislative hearing,

> "Caretakers of foster children need to help these children through the pain of separation from their parents and siblings, as well as help them to heal physically and emotionally. They need to be able to assess what else the child might be experiencing: sexual abuse, substance abuse, emerging sexuality, etc. Caretakers also need to be able to act as advocates for the child in terms of negotiating such various systems as education, legal, medical, mental health, and human services. And, while they are nurturing they need to be preparing to let go, to help prepare the child to return to their families or move to an adoptive home. Training will enable caretakers to better provide for the needs of foster care children and, in the case of foster parents, help to address a major issue in the field with respect to retaining foster families. The incentive for becoming and continuing to be foster parents is the hope of making a difference in the life of a child. Providing training as a support helps foster parents face the emotional stressand challenge that necessarily comes with the territory."

We, therefore, urge the Public Assistance and Unemployment Compensation Subcommittee's favorable consideration of Title IV of H.R. 2753.

COORDINATION AMONG EXISTING SERVICES AND PROGRAMS MUST BE SYSTEMATIZED TO ASSURE THAT THE NEEDS OF CHILDREN AND YOUTH IN FOSTER CARE ARE ADEQUATELY AND COMPLETELY MET: In surveying some of our member agencies on the issue of coordination, the following comments were received:

> " In some states, if a teenager goes before a court, the Department of Human Services may have authority for him but he may not be referred to mental health. If he goes to a community mental health center, he may well not be advised of or have access to the services of the Department of Human Services. Similarly, a delinquent with mental retardation may just be treated as a delinquent without ever being referred to mental health services."

> " There is very little coordination between the different programs even when they are housed in the same building. The various child, youth and health programs operate separately for the most part."

In December 1985, CWLA along with several other national organizations participated in the Wingspread Conference on a National Youth Policy. The Conference proposed the objectives of a national youth policy which are contained in The Young Americans Act (S. 476/H.R. 1003) introduced by Senator Chris Dodd (D-CT) and Representative Claude Pepper (D-FL), respectively. In the House, the bill has been referred to the Committees on Ways and Means, Education and Labor and Energy and Commerce. Its cost has been estimated by the Congressional Budget Office at $21 million annually. Among its various provision (a one-page explanation is attached) is a requirement that the Administration on Children, Youth and Families/HHS as well as a designated state agency in each state be responsible for coordinated the range of existing programs that serve children and youth, including, for example, Title IV-E Foster Care, Titles of the Juvenile Justice Act, the Developmentally Disabled State Grant Program, the Education Programs for Handicapped Children and the Alcohol, Drug Abuse and Mental Health Block Grant. Models for such coordination exist in Massachusetts and New York. California is currently considering a bill to establish an interagency board and Illinois has developed a plan for an integrated system of common based services for children and youth; however, it has not been implemented due to the lack of funding.

CWLA has prepared a briefing book on the Young Americans Act which we would be pleased to make available to members of the Committees.

CWLA urges the favorable consideration of H.R. 1003 when it comes before the Subcommittee on Public Assistance and Unemployment Compensation.

One final issue with respect to coordination relates to the health care needs of children in foster care. In January 1987, CWLA and the American Academy of Pediatrics received a grant from the Hasbro Children's Foundation to develop strategies for improving the health status of children in foster care. Pertinent sections of the White Paper which resulted from the Colloquium convened by CWLA and AAP are as follows:

"Children in foster care, both when initially placed and, ironically, after having been in care, have much higher rates of physical and emotional illness and developmental and educational problems than other children their age. (Schor 1982, Kavaler & Swire 1983) The probable common source of poor health status as they enter foster care is their preplacement history of social and economic disadvantage, abuse and neglect. A state goal and responsibility of the foster care system is to effectively address health problems; however, the evidence suggests that this usually does not occur. (Stone 1969, Schor 1982, Kavaler & Swire 1983) To the contrary, some have suggested that aspects of well-being are further compromised during foster care."

"No previously identified individual primary care provider or organized health assessment often have not been specified previously, therefore, the components of an adequate data base usually are not uniformly defined. As a result, the initial data collection is usually inadequate for later purposes, and does not serve as the basis for placement or ongoing care. Also, often overlooked by the present system is the opportunity to provide a pre-placement assessment and health care plan for children at risk of foster care placement. Children's health care problems may contribute to dysfunction in their family, and if identified and treated early might prevent later foster care placement."

Title II of H.R. 2753 would address many of these issues and is line with the recommendations of the Colloquium (which consisted of 22 leading experts in the field of health care of children in foster care) White Paper. Title II would require that the case plan of every foster care child include a health care plan setting forth, at a minimum, a record of when the child received or is scheduled to receive a health examination, including physical and mental health examination; a record of the immunizations which the child has received and any know allergies; assurances that periodic health examinations will be scheduled as appropriate; a record of health care providers; and assurance that foster parents or child caring institutions have copies of the health care plan and understand their responsibilities with respect to meeting the health care needs of the child.

CWLA strongly supports Title II of H.R. 2753 and urges its favorable consideration by the Subcommittee on Public Assistance and Unemployment Compensation.

PROGRAM	SERVICES		SITE	ACCESSIBILITY IN CRISIS
	INTENSIVE PHASE	FOLLOWUP		
Boys and Girls Aid Society	• In-home counseling combined with groups - Parent Survival - Adolescent - Women's - Parent Support - Fam. All Together	• Groups con't up to a year • Self help focus • Weekend away	• Home • Community • Director's and Parent's homes (groups	• Call Emergency Service at agency • Staff have pagers • Families have staff home phones
Centers For New Horizons	• 15 weeks classes - GED - Exercise - Lifeskills - Parenting skills - Stress management - Nutrition • In-home counseling	• Office/home counseling • Job develop.	• Agency • Home	• Director has beeper • Families call Director, he calls therapist
Commonweal Family Consulting Service	• Diag. Assessment - Psychological - Med./Nut. - Education - Speech/Language • Family Therapy • Advocacy/transp.	• Support, access service • Typically by phone	• Home • Consult's. Offices • Community	• Families call beeper • Families have staff home phones
H.E.L.P.	• Fam. Counseling - focus on parent skills and coping • Access Services • Educ. Model	Not Applicable	• Home • Community • Office, as needed	• Beeper system - rotate with staff
Homebuilders	• Diffuse crises • Engage Family • Teach new skills • Concrete services • Advocacy, linkages	• Booster shots	• Home • Community	• Families have staff home phone • Beeper back-up - one person, each county rotates for 1 week
Kingsley House	• Indiv./Fam. Couns. • Role Model, Teach • Life skills • Linkages • Behav. Management • Social Casework	• Less intens. • Service Linkage • Support	• Home • Community • Office if neccessary	• Families have all staff home phones
North Carolina Child Mental Health Services	• Counseling/Therapy • Advocacy • Linkages • Housing fix-up • Concrete service • Behavioral Training	• Support as needed	• Home • Community • Family stop by office	• Families call Emerg. After Hours System for counties, they call Project staff • May give home phones.
Parent Partner Program - Family Project, Beacon Counseling	• Family Therapy • Parenting skills • Cogn., behavioral, family systems theor. orient.	• Weekly Family individual/fam. therapy • Parent Partnership Group.	• Home • Community • Home office	• Answering Service phones • therapist's Beeper • May give home phone
Project S.A.F.E., Youth Services, Inc.	• Counseling: indiv./fam. • Advocacy/likages • Concrete services Housing fix-up • Respite-shelt., day care		• Home • Community • Agency	• Families call Agency Emerg. shelter, which calls Beeper • Staff rotate beeper
Sweetser Children's Home	• Structural/strategic family therapy • Modeling, life skills • Advocacy/Linkages • Much planning, sup. case review		• Home • Community • Planning time in office	• Families call agency switchboard, which calls staff.

CHILD WELFARE LEAGUE OF AMERICA, INC.

Highlights of the Young Americans Act

1. Establishes formally in law the Administration for Children, Youth, and Families (ACYF), defining the role of the Commissioner, requiring appointment of the Commissioner by the President, and making the Commissioner directly responsible to the Secretary of HHS which parallels the organizational structure of the Administration on Aging.

2. Requires consultation between the Commissioner and other federal agencies operating the 57 federal programs at a cost of $30 billion for children and youth.

3. Establishes a Federal Council on Children, Youth, and Families to advise the President and Congress on matters related to the special needs of younger Americans.

4. Encourages state and area wide planning advocacy aimed at providing younger Americans with:

   (a) the best possible physical and mental health;

   (b) adequate and safe shelter;

   (c) the highest quality of educational opportunity;

   (d) effective training, apprenticeship, and productive employment;

   (e) the widest range of civic, cultural, and recreational activities which promote self-esteem and a sense of community; and,

   (f) genuine participation in decisions concerning the planning and managing of their lives.

5. Provides for an out-of-home placement care ombudsman program within each state.

6. Authorizes grants to states for supportive services to demonstrate methods of filling service gaps identified in the planning and advocacy process.

7. Provides for a White House Conference on Young Amelcans to be held in 1990 for the purpose of, among other things, arriving at a statement of a comprehensive coherent national policy on children, youth, and families.

8. Authorizes "such sums" as may be necessary, for fiscal years 1988, 1989 and 1990, to carry out the provisions of the Act.

Acting Chairman Downey. Ms. Dondiego.

STATEMENT OF SUE DONDIEGO, LEGISLATIVE CHAIRMAN, NEW JERSEY FOSTER PARENTS ASSOCIATION

Ms. Dondiego. I am a foster parent and the legislative chairperson for the New Jersey Foster Parents Association. I am also the legislation chairperson for the National Foster Parents Association.

I want to tell you today some of the things that could be done in spite of funding or lack of funding, or regulations or lack of regulations. I think one thing that has happened in New Jersey is that Foster Parents were seen as being important people in the system since they had the care of the children.

We were the first foster parents Association to receive any kind of State funding, to hire staff, to serve as advocates for foster parents and their children, and to respond to foster parents' questions or issues they had. We have an in-service training program, for both foster parents and agency staff together, to continue the partnership model.

We also have public relations and recruitment of foster homes. We have the only toll-free number in the State which answers foster care and adoption inquiries. A foster parent answers that telephone so we have someone who knows what they are talking about.

I think one of the most important things in addition to the funding, because I have no problem asking anybody for money, is the respect we have finally received from our State agencies and others. It really was not only to foster parents. We began to have a government/private sector relationship. A lot of child advocacy groups, private industry, the foster parents, legislators, a whole bunch of people got together and looked at foster care.

It has to be uniform. Many of the things you have heard here today I could tell you.

One of the reasons the New Jersey children are being placed in foster care is homelessness. We have the ability to go ahead and talk to people and say, "Hey, why are you doing this?" That is in the long statement I gave you.

Our rationale, and maybe I tend to oversimplify, was that they are spending $65 and up to warehouse these people in a motel or welfare hotel. Families are never going to get on their feet in there. They are never going to go any place. Why not have a program, since foster parents were doing it anyway, taking in mothers and their children. No one wanted to know you because once a mother is with the child, it is not an out-of-home placement.

There were no reimbursement fees, no guidelines, no nothing. But some foster parents were doing that anyway. That is one of the big programs we are working on.

We will not cure the homeless situation, but we thought, why split up families. We saw homelessness as no reason for children being placed in foster care.

The other thing we are working on that is not in the long statement because I didn't know about it, is grant money available in the area of AIDS. We have been successful in finding foster homes for children with AIDS.

We are certainly going to go after that funding for support, coordination of services, and speeding up the approval process. The approval process is a simple thing that really holds up foster parents because of the time it takes to get your pre-service training, your assessment, things like that. That is where foster parents associations can be very effective, in helping these people move through the system.

The other thing we are working with as a foster parent association is with our corrections department. There are certainly a number of children in corrections or, in shelters that are young and can very appropriately be put in a foster home setting, again with the right supports, the right training.

There are four pieces of legislation we have in New Jersey that should apply to all foster parents throughout the nation. I think you have to have mandatory, appropriate training. It has already been said that States needed more reimbursement for foster parent training. Every one before you, I assume for the last two hearings said if you had foster children you needed the training. I hope they did.

You can't ask us to accept a child with AIDS into our home and work with that child without knowing what we are doing. You can't ask us to accept an adolescent, who has come from a home where his parents abuse drugs or perhaps he or she has abused drugs, and know how to work with that young person and be a useful citizen, without training.

In New Jersey, when we started our training program, quite honestly we held our breath after we said foster parents needed it. We didn't know how many would sign up for it. We now have so many foster parents signing up, and it is simply voluntary, that we don't have enough foster parent trainers to do the training.

I think that is a great thing to say about foster parents. We started out with an 80-hour program. We have so many people signed up for the program that we can't handle the number of foster parents.

I think foster parents want the training. That is an excuse that some child-placing agencies use, oh, you can't get them to come to anything. But we also give foster parents mileage reimbursement and child care reimbursement. The State funds us to do that program because it is so important to have their foster parents trained.

The other thing I think you have to look at very seriously for all foster parents is a respite care program. Again, if you ask someone to take care of an AIDS child or two AIDS children, the feeling of isolation is what prevents foster parents from doing it, not the fear of AIDS.

So they need support. If you are asking foster parents to care for children with difficult emotional and physical and medical problems, they need to know upfront that they are going to get a weekend off once in awhile.

There is no formal respite program, not even in New Jersey, but we have that legislation in.

I think the other thing that we definitely need, again, for all foster children, it is really for them, is reimbursement rates that are adequate. They have to be reasonable. The National Foster

Parents Association did a survey and they found that most foster parents spend $1,000 to $2,000 every year for each child in their care.

Now if we are not going to give them adequate reimbursement rates, then I think we have to be honest and say foster care is going to be an upper middle class, elitist program and forget about keeping children in their communities and serving them the way they should be served.

Otherwise, you have got to make it easier for more people to be foster parents.

I only have a couple of the things I was writing as people were talking. I found as a foster parent and a member of the foster parents association, a problem with the way the Federal Register is written. The only areas that we would have been able to take advantage of could only be applied for by a child placing agency. I think maybe that needs to be looked at and see if there aren't child advocacy groups, that would be interested.

I know we certainly would be interested and other foster parent associations would be interested. It is not that we wouldn't work with our child-placing agencies, but again we have a good relationship. They have a level of command and a level of bureaucracy to go through. When they are willing to work with foster parents and say, you go after the funding and we will work with you, we can go after the funding. We don't have to get approval from ten steps above us.

That is something I would like to have you look at.

The other thing I am not sure was mentioned, before this hearing today, is that you have to remember about the types of children coming into foster care. If these children become eligible for adoption, they don't turn into marvelous little children overnight.

Adoptive parents need the same support as we do. We always try to include them in anything we are doing. I am going to stop in case you have questions.

[The statement of Ms. Dondiego follows:]

STATEMENT OF THE NEW JERSEY FOSTER PARENTS ASSOCIATION

My name is Sue Dondiego. I want to thank you for the opportunity to appear before this Committee today.

For almost 25 years, I have been a foster parent caring for children of all ages, many with special needs. I have served as Legislation Chairman for the New Jersey Foster Parents Association (NJFPA) for a number of years, and on April 30th of this year, I was appointed Legislation Chairman for the National Foster Parent Association (NFPA).

New Jersey Foster Parents Association:

- A voluntary, non-profit organization.
- Provides supportive services to foster parents statewide.
- Offers training opportunities to foster parents and agency staff.
- Actively involved in the recruitment of foster homes.
- Serves as an advocate for foster parents, children and families.
- First State Foster Parent Association to receive funding through Department of Human Services/Division of Youth and Family Services to:
  1. Establish an office and hire staff to be available to respond to foster parent concerns or questions.
  2. Develop and implement an in-service training program, presented by foster parents trained as trainers and paid for presenting training sessions.
  3. Carry out a statewide public awareness and foster home recruitment campaign.
  4. Respond to foster care and adoption inquiries on the State's only toll free 800 number which is answered by a foster parent.
  5. Work with county/local Foster Parent Associations to enable them to meet the needs of foster parents in their area.

New Jersey Division of Youth and Family Services:

- State child welfare agency which provides protection to children in their families.
  1. Protection is provided through the delivery of service either directly or through contract and/or referral.
  2. All service provision is based upon the principle that family preservation is of utmost importance.
  3. Services are delivered for the purpose of preserving and strengthening the family.
- When a child's safety cannot be secured within the context of his family, alternative services may be provided which involve out of home placement.
  1. One such out of home placement service is foster care.
  2. The foster care service is not new. It has existed within the child welfare system for many years.
  3. In past years, foster care was viewed as a solution to child welfare problems - an end in itself.
  4. When families were dysfunctional and not readily rehabilitated, placement of the children into foster homes was practiced as a "solution" to the problem. The children were protected and were in an "improved" environment.
  5. The practice resulted in many children remaining away from their families for many years - some never were reunited.

6. Once placement occurred, few services were provided to the child's family to facilitate change for the purpose of the child's return home.

7. The lack of change provided justification for the child's continued placement.

8. This practice resulted in a system that inadvertently promoted ongoing family separation.

9. The cummulative numbers of children in foster homes increased since children were not leaving to return home.

° The advent of permanency planning case practice in child welfare in the early 1970's, along with New Jersey's Child Placement Review Act which was enacted in 1978 and the subsequent P.L. 96-272, brought attention to the foster care system and its ills and brought about changes.

° Permanency planning promoted the active provision of services to the families of children in placement for the purpose of reuniting the child with the family as quickly as possible or determining that rehabilitation is not possible, therefore arranging for an alternative permanent placement for the child.

The testimony I have prepared focuses on New Jersey's foster care system, but I can tell you from my previous positions on the NFPA Board, that many human services providers, in spite of their best efforts, feel they are taking one step forward and two steps back, and foster parents from across the country are expressing many of the same concerns regarding foster care.

Foster care is meant to be temporary. It means recruiting and retaining foster parents who can provide quality care to the children placed in their homes until these children can be reunited with their birth parent(s) or be adopted.

It means having appropriate support services in place for both foster parents and foster children to prevent placement disruptions.

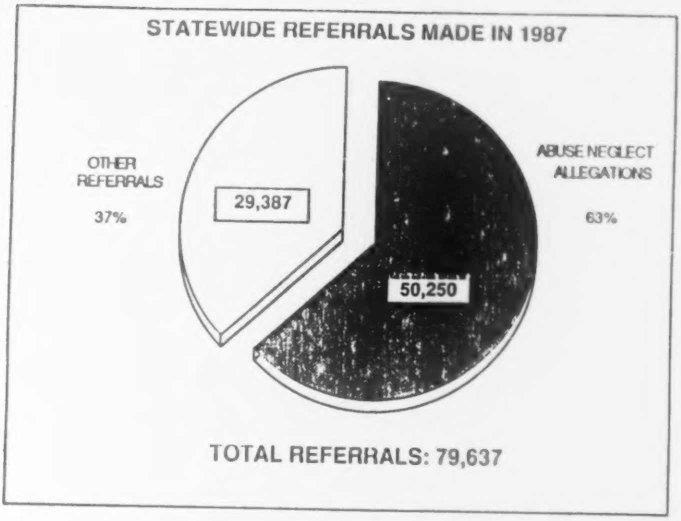
It means having a sufficient number of agency staff to work with all children and families under supervision.

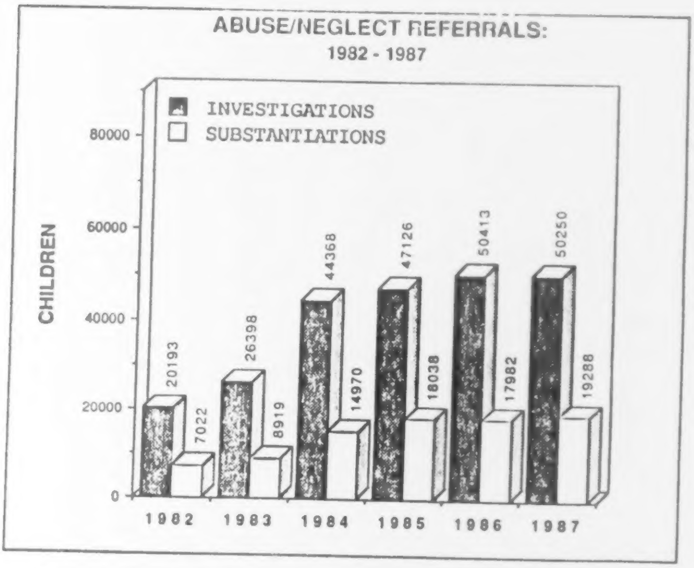
The reality is that the types of children coming into foster care over the past few years have many serious physical, medical and/or emotional problems. They are the victims of physical/sexual abuse or severe neglect. They are infants born addicted to drugs and alcohol or test positive for the virus which causes AIDS. They are sibling groups, adolescents with little schooling and no job skills, pregnant teens and teens with babies.

One of our Regional Administrators said recently, "There aren't any more Shirley Temples in foster care."

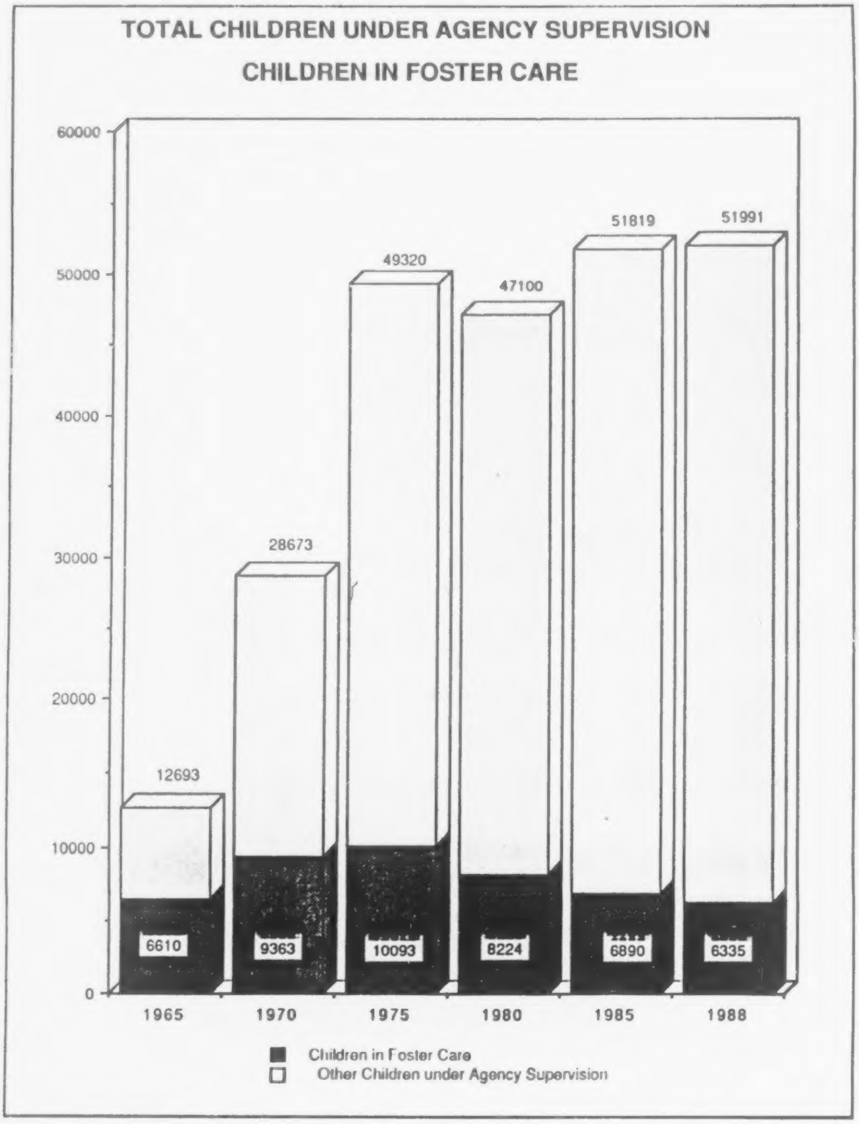
In spite of the improvements made in foster care in our State, a real lack of services for children continues to exist. Some are definitely the responsibility of the child placing agency. Our Association has no problem with advocating for these services and insisting that they become part of the plan for foster children. We continue to see far too many foster children placed out of county, and separated from their brothers and sisters because of the lack of a sufficient number of appropriate foster homes. We see far too few visits between birth parents and/or siblings, and far too little attention given to foster parents and foster children because the principle focus of DYFS activities is with the protection of children and maintaining the birth family structure whenever possible.

Once a child enters foster care, some services are simply impossible to find. Foster children should, when possible, remain in their own communities. But regardless of which community they are in, there is a serious lack of qualified, sensitive, professional counselors, doctors and dentists who will accept Medicaid reimbursement. School districts shuffle papers back and forth, leaving foster children, many of whom are in special education classes and who can least afford to be absent from school, sitting in their foster home for months while a decision is made as to which class they will be assigned.





The other side of the coin is services to foster parents. The same Regional Administrator who made the Shirley Temple statement added, "....and there are no more Ozzie and Harriet's either." He is absolutely right. When I became a foster parent many years ago, I stayed at home to care for my birth children as well as my foster children. Today, even though I am not paid to work, I work. The family structure we once knew no longer exists. Both parents work and there are many more single heads of households who also work. If we are to recruit and retain foster parents, support services - such as after school programs, child care, and/or homemakers - must be provided. If foster parents are to provide quality care to the children placed in their homes, they must receive adequate liability and property damage coverage so they do not lose their homeowners insurance or life's savings because of the acts of their foster children.

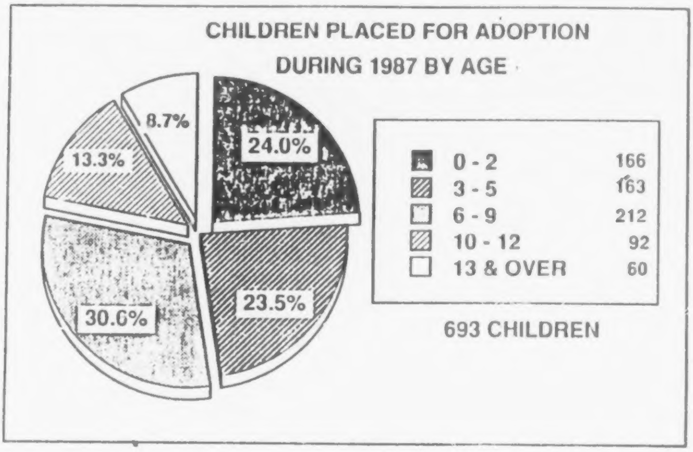


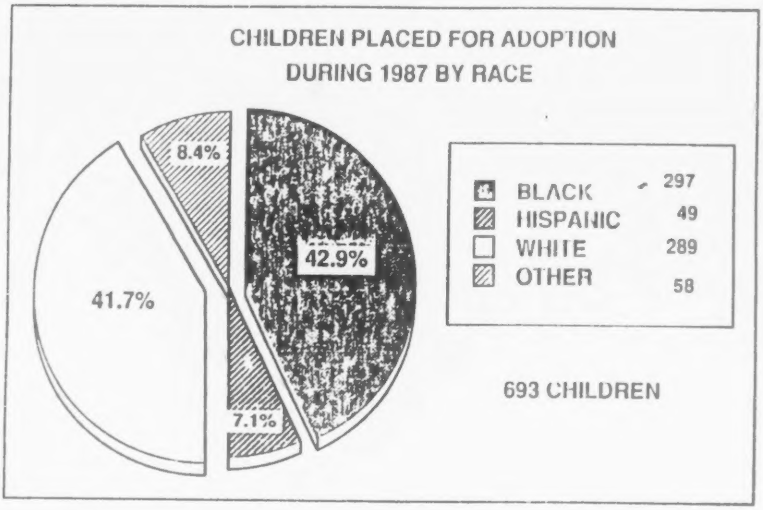
In New Jersey, DYFS Adoption Resource Centers (ARCs) focus their efforts on those children whose goal is adoption. The vast majority of children are referred to the ARCs by DYFS District Offices.

Over the last few years, mechanisms have been put in place which, to a great extent, eliminate the legal and administrative barriers to timely adoption planning. Systems were reorganized, time frames established and monitored to ensure children move through the system rapidly. These efforts have done much to provide children with permanent homes, in a timely manner.

Creative, effective and innovative programs have been developed in the areas of recruitment and training of adoptive parents, specialized treatment for children awaiting placement, support services for adoptive parents after placement, and post-adoptive services for adoptees and their families.

The DYFS District Offices have also improved their process of identifying children eligible for adoption and have greatly increased the number of cases transferred to the Adoption Resource Centers. In one year, from December 1986 to December 1987, the adoption caseload increased from 1,734 to 2,159 children.





While these efforts are certainly applaudable, they have led to overloading of the adoption staff's cases, hindering their ability to meet the needs of these children. The ARC workers are also faced with the same problems mentioned before. Just because children are transferred to ARC, their characteristics don't change. They exhibit many of the same difficult physical, medical, and emotional problems they had when they entered the system. The vast majority of these children have been sexually abused, experienced previous institutional or residential placement, and have no history of stability, either in their birth homes or in foster care.

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To address these problems, the following initiatives have been established:

- Development of two pre-adoptive group homes with a specialized program to help children deal with past rage and develop healthy bonding behavior to new adoptive families.

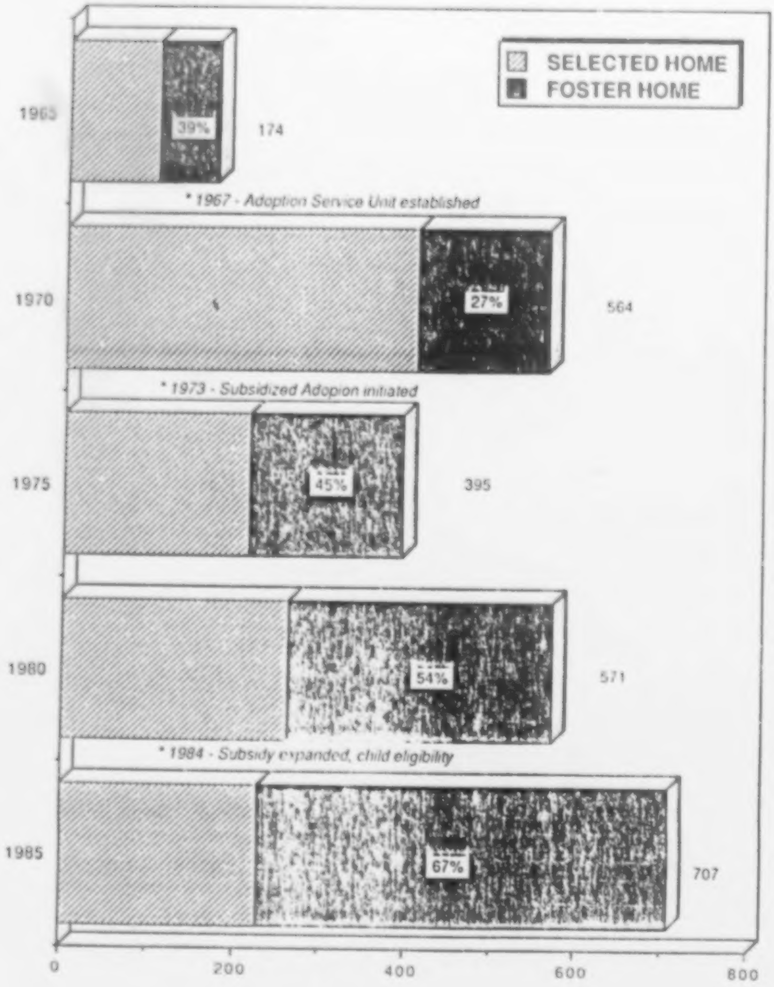
- Grass Roots and Mass Media Recruitment Campaign to attract minority applicants to the adoption program.

- Development of the "Parent Advocate Leader" Program (PAL) linking (for support purposes) experienced adoptive parents to those currently being studied and trained.

- Post-Adoption Counseling Program, which offers services at no cost to adoptive families at any stage in the adoption process.

- Participation in the National Adoption Network which is a telecommunications hook-up with adoption agencies, adoptive family groups, and the National Adoption Center. This offers access to families throughout the nation who may be able to offer homes to our children.

FOSTER HOME ADOPTIONS



Overview of Foster Care Supports and Practices:

Partnership:

- Team approach for placement plan; i.e. foster parent(s), DYFS staff, birth parent(s), and children, if age appropriate, working together towards reunification.
- Child Placement Review Boards, a citizen review of all out of home placements to which foster parent(s), birth parent(s), DYFS staff and other appropriate persons are invited to participate.
- Local offices provide in-kind support to county foster parent associations through telephone usage, providing office/desk space, copy machines, postage and mailings.
- Policies to encourage foster parent participation in case management.
- Provides a forum for local foster parent association presidents to meet to discuss foster care issues and promote problem resolution.
- Statewide training on the concept of partnership between foster parents and staff.
- Foster parents included on committees which develop or revise policies impacting on foster care which results in more comprehensive policies that are sensitive to foster parent and foster child needs.
- NJFPA has become a consultant, along with other advocacy organizations, to agency administration when new initiatives or changes are being considered.
- NJFPA included in the review process for all policies developed related to foster care for the purpose of input.
- Foster parents as co-trainers in the delivery of the pre-service training program to enhance the quality of training and to promote partnership between the agency and foster parents.

Support:

- Liability Program for Foster Parents, which includes liability and property damage coverage.
- Voluntary in-service training program for foster parents and DYFS staff, conducted by NJFPA.
- Office of Advocacy and a toll-free Citizens Action Line (CAL) to deal with any issues concerning agency operations or practice: the office reports to the Director's Office. Foster parents (and others) use this office for troubleshooting unresolved issues.
- Provides supportive counseling services to the foster parents through contract with a mental health agencies.
- Buddy System Support Network for foster parents. An experienced foster parent "buddy" is assigned to all newly approved foster parents and is available to all foster parents.
- Policy which outlines a process for record review by foster parents and enables foster parents to submit information to their record.
- Transportation and child care reimbursement to foster parents to encourage their participation in training.
- Foster Care Crisis Fund in local offices to be responsive to emergency needs.
- Local and statewide foster parent recognition events to provide support to foster parents.

- Comprehensive Foster Parent's Handbook to inform foster parents about agency policies/practices.
- DYFS in-service training programs open to foster parents.
- Reimbursement process to foster parents streamlined to ensure more timely payment. Clothing payments were changed from quarterly to monthly at the foster parents' request.

Foster Home Development:

- Local and statewide recruitment of foster homes.
- Criminal history check and fingerprinting of prospective foster/adoptive parents.
- A computerized Provider Caretaker Information System (PCIS).
- Funds specifically allocated for foster care and adoption recruitment and training to assure a basic level of activity in these areas.
- Foster home standards include an assessment of life safety factors to improve the quality of foster homes.
- Standardized home study format for foster home development to assure a basic level of uniformity statewide.
- Ten-hour standardized mandatory pre-service training program for prospective foster and adoptive parents to enhance the quality of foster parents so that they are better informed to provide care to children.

Special Services to Children in Placement:

- Specialized foster homes for children who have AIDS or test positive for the virus which causes AIDS.
- Agency scholarship program to provide financial assistance to student clients beyond high school.
- Internal administrative case review system for children in out of home placement to monitor case progress on placements to promote permanency.
- Developed a formal emergency foster home network to be responsive to placement needs.
- Policy on long term foster care to provide for children for whom return home or adoption is not appropriate.
- Policies for time-limited case goals for all children and families which encourages permanency case practice for children in out of home placement.
- Unified review system for all children in out of home placement to assure appropriate and timely case handling and to promote reunification and permanency.

Legislation Pending:

Increase in reimbursement rates to more adequately structure difficulty of care rates.

Respite Care for foster parents caring for foster children with serious physical, emotional or medical problems and all foster parents for emergency situations.

Mandatory in-service (ongoing) training for foster parents.

Enrichment Fund for foster children which will enable them to participate in recreational, cultural, or educational activities.

Long-Term Foster Care, by court order, which will allow older foster children, who have remained in a foster home for a number of years and who cannot or do not wish to be adopted, to remain in the foster home. The legislation does not sever parental rights but does allow foster parents to make the day-to-day decisions for their foster child(ren) as they would for their birth children; i.e. medical care, driver's license, working papers, etc.

Programs being developed....jointly by NJFPA and DYFS:

OPPORTUNITIES, a program which would allow a single parent and child(ren) to remain together in a foster home rather than be separated because of homelessness. The problem with this project is that federal funding can be used to put these families in welfare motels, which does noting for the self-esteem of the families and in no way prepares them to become useful members of the community, but cannot be used for rent subsidies. Some foster parents have taken in both a mother and her child(ren), and in these cases, the longest time spent in a foster home was four months. If these families had been separated, and the child(ren) placed in foster care, I can guarantee that the mothers would still be trying to find adequate housing and the children would still be in foster care. It seems ludicrous to us, as foster parents, and a total waste of taxpayer's money, to spend $55 or more to warehouse a family in a welfare hotel, when for less, these families could be given the support they need to become independent. We totally oppose children being placed in foster care because of homelessness, and in spite of the barriers, we are going to find a way to keep single parents and their children together.

ALTERNATIVES TO INCARCERATION, a program which would identify foster families to work with and who would be willing to accept youngsters, now in the correction system, into their homes. With the right training and support services this project has good possibilities.

ADOLESCENT/TEENS - aging out of systems. Title IV E funded programs to provide training for foster parents who in turn can teach life skills to teens.

Despite our State's best efforts to preserve the family structure, there is overwhelming evidence that our children and youth are increasingly in trouble. In New Jersey, the number of substantiated child abuse cases rose from 6,000 in 1982 to close to 18,000 in 1986. The number of children under State supervision jumped from 28,000 in 1982 to over 50,000 in 1986. Up to 40% of New Jersey's children live with parents who abuse drugs and alcohol or both.

Each year, 100,000 youngsters become involved with Family Court. Suicide is the second leading cause of death among New Jersey teens. More and more children are being placed in foster care because of homelessness. While DYFS is capable of addressing some of the problems which led to this situation, the fact is, little or no low income housing is available in New Jersey. Are child placing agencies to be responsible for building sufficient, adequate low income housing and eliminating poverty, substance abuse and the other social ills which cause the breakup and/or destruction of families?

The future of child welfare services will greatly depend on the expansion and funding of programs which help retain the family structure.

The areas which need to be addressed are:

Poverty
Homelessness
Substance Abuse
Mental Health Services
Education
Employment

If these areas continue to be ignored as essential basic needs of all families, then foster care will continue to be a crisis program.

If a sufficient number of foster homes are to be recruited and retained, child placing agencies must:

1. Recognize foster parents as professional members of the treatment plan for children.
2. Recognize foster parents and foster parent associations as allies in resolving foster care problems and social issues which impact negatively on all children and families.
3. Be funded for and provide those services/supports - such as mandatory pre-service and in-service training, child care, respite care, adequate reimbursement rates, etc. - which are essential if the needs of the children coming into foster care today are to be met.
4. Establish specialized foster homes (with supports and services) for children with specific needs, who would otherwise require a more restrictive placement (residential, correcitonal or hospitalization).

Thank you again for the opportunity to address this committee.

Chairman **Miller**. Ms. Massinga.

STATEMENT OF RUTH MASSINGA, PRESIDENT-ELECT, AMERICAN PUBLIC WELFARE ASSOCIATION, AND SECRETARY, MARYLAND DEPARTMENT OF HUMAN SERVICES

Ms. **Massinga**. APWA is pleased to be here with these other national organizations and pleased for you to see there is the will, the creativity and the desire to improve the nation's child welfare system. Before we talk about specific concerns regarding the Federal role, I want to announce we at APWA in demonstrating our concern and commitment to improve the child welfare system for which we at the local and State level have responsibility, have received a planning grant to start an indepth review of the public child welfare system.

All of us know that while Public Law 96-272 has helped us move forward the results we all want to see there are significant changes that we need to start planning now so as we move into the 21st century, the public child welfare system does all that we want it to do and takes into account new challenges and new problems that are—that we are all experiencing because of the kinds of difficulties that families face today.

We will be creating a commission to examine the needs of families and children and we will be embarking on that work in much the same way as we have employed to look at welfare reform. As you know, some of that APWA work led to shaping the welfare reform policies that we and you are pioneering today.

We hope that our recommendations for a newly designed service system will be helpful to the Public Assistance Subcommittee and to the Select Committee. We anticipate working closely with members of those committees, members of your staffs, as you enact child welfare reform legislation in the 101st Congress.

Given the nature of today's children and families and the needed services, we must be willing to evaluate our service responses with courage and creativity. We are. Not only are we pioneering innovative ways at the State and local levels to look at new service approaches, but we must be wiling to look at service policy as well. That we will do.

We must ensure that we don't attempt to force people with different though multiple problems into outdated service delivery structures. At the same time, the Federal Government must play its historic partnership role in the development, financing and administration of policies and programs, to promote stable and self-sufficient families.

We believe that all of us, the Congress, APWA, other national organizations that are concerned with children's issues sitting here and the Nation's communities must work together to reinforce full Federal leadership in making the system a model one.

I would like to talk about some of those factors which I think should be properly looked at in terms of the Federal role and strengthening the Federal role.

The factors that exist in the children's services system now which result in perverse incentives to remove children from their homes rather than to support and maintain them in their families were already alluded to by David. I will reiterate them.

The fact that much of the money, the open-ended entitlement dollars, are spent for out-of-home placement rather than for prevention, is a perverse disincentive to States.

In fact, when we make investments in preventive services at the local and State levels for prevention, we are making them largely out of local and State funds. If we are able to use title IV-E dollars to better put services at the front end, we think that the results all of us want—shorter stays, in fact, no stays at all—will in fact be emphasized. We would recommend, along with CWLA, that Congress consider placing prevention services under the allowable services in entitlement IV-E.

It is, in fact, a wellness model we are promoting rather than a model of attacking a problem after it has, in fact, been exacerbated. The need for a preventive approach is evident from the testimony before you in the previous panels.

Currently the Federal Government defines the limits of its financial involvement for children and families who happen to have been eligible for aid to families with dependent children at the time of placement in substitute care.

Fully 60 percent of the children in foster care are not eligible under present rules for federally funded services under title IV-E, but they surely will be over time. We recommend Congress consider extending Federal services to all children whose family situations require they be placed in foster care.

You have heard already and I will reiterate, States are experiencing a diminished ability to attract the most qualified social workers to public service as opportunities outside the public sector have increased.

Insufficient progress has been made to ensure child welfare salaries and working conditions are competitive with the private sector. In fact, we are losing ground there. Especially with the changing nature of foster care case loads and the increasingly complex court-based service context, highly qualified, competent workers are crucial to the ability of localities to achieve positive outcomes for children and manage those cases well.

At one time, the Federal Government funded in-service training and stipends for advanced study with work commitments to public agencies. Congress should consider returning to this kind of support for development of this critical resource, particularly in the public sector. We need to draw and keep the best brains to public child welfare work.

All branches of the Federal Government must recognize that compliance with the requirements of any law is not synonymous with assuring quality service.

Much discussion this morning has centered around compliance reviews. I will not revisit that issue except to say that all of us must recognize that we must address evaluation of quality and the measurement of compliance as separate, though related, activities.

We must assure that we do not treat quality any less importantly simply because it is more difficult to measure.

There has been discussion already about the interrelationships of programs, programs as they have historically and traditionally existed and as they will need to evolve for the next 10 years, not just programs within the child welfare system, but services within the mental health system and services within the juvenile justice system which historically have been handled as parallel and very separate systems at the local and State levels.

When we look at the success and quality of the child welfare system now and in the future, we need to look at the interactive impacts and outcomes of those systems as well as our traditional child welfare service system on the families to which all those services are directed.

It may be difficult to get a handle on these matters, but it is important to do lest we continue to condemn the child welfare system out of simplistic approaches to evaluation.

In many States there are child welfare agencies who work with local advocates to create independent foster care review boards who do have a more elaborate structure to review not only the case records but to interview a sample of participants in the review process to get a flavor and feel for the quality of the case work and the quality of the interactive systems effects we are talking about.

It is those kinds of efforts that we need to look to replicate in order to both deal with quality and quantity of compliance in future.

I thank you for this opportunity. We will be happy to answer any questions you may have.

[The statement of Ms. Massinga follows:]

STATEMENT OF RUTH MASSINGA, PRESIDENT-ELECT, AMERICAN PUBLIC WELFARE ASSOCIATION, AND SECRETARY, MARYLAND DEPARTMENT OF HUMAN RESOURCES

Good morning, Mr. Chairmen and Members of the Subcommittee on Public Assistance and Unemployment Compensation and Select Committee on Children, Youth and Families. My name is Ruth Massinga. I am the President-Elect of the American Public Welfare Association (APWA) and Secretary of the Maryland Department of Human Resources. I appreciate the opportunity to present testimony today on behalf of APWA and its National Council of State Human Service Administrators.

The National Council of State Human Service Administrators is composed of those officials in the 50 states, the District of Columbia, and the U.S. Territories charged with responsibility for administering publicly funded human services, including the child welfare, foster care, independent living, and adoption assistance programs. Over the years, the Council has worked closely with the Select Committee on Children, Youth and Families, and the Public Assistance and Unemployment Compensation Subcommittee in developing sound, forward-looking human service legislation. We welcome the opportunity to work with you in reexamining and improving the delivery of public child welfare services.

APWA and state human service administrators are very pleased that your committees are holding these joint oversight hearings. We are grateful for the leadership the Public Assistance Subcommittee and the Select Committee have provided in bringing Congressional and national attention to the progress achieved in our nation's child welfare system, and the problems that remain.

OVERVIEW

As you have heard in your past two oversight hearings, the Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) had a dramatic effect on programs for children in need of protection. While many positive changes occurred, the system is now showing evidence of a declining ability to make a difference in the lives of the children and families receiving services.

As states struggle to achieve full compliance with P.L. 96-272, there is growing awareness of discrepancies between the system envisioned in P.L. 96-272 in 1980 and the problems presented in local child welfare offices throughout the country in 1988. These discrepancies have made the challenge of implementing and complying with the mandates in P.L. 96-272 more difficult and, in some cases, impossible.

As human service administrators, we are concerned with the need to consider new methods to achieve the goals of P.L. 96-272. My colleagues and I have resolved to take action on that conviction. But first, let me review the present situation.

Progress since 1980

I think it is only fair to congratulate Congress, the states, private providers, and advocates regarding the successes achieved in the existing child welfare system. While much remains to be done, much has been accomplished. In light of the explosion of reports of child abuse and neglect, which increased from 1,154,000 in 1980 to more than 1,900,000 in 1985, our successes have been dramatic. Of the 800,000 children and families who received treatment and protective and preventive services in 1985, only 14 percent (112,000 children) were placed in foster care. This demonstrates that efforts to maintain these families in their home setting have had an impact. When we examine the 1985 foster care figures, we see that these 112,000 children needing protective services represented 60 percent of the nearly 190,000 children who entered foster care in that year. The remaining child entries in that year, comprising 40% or 78,000 children, were for reasons such as status offenses, delinquency, and parental absence due to incarceration, institutionalization, or hospitalization.

We also know that:

- The number of children in foster care at any one point in time has decreased significantly: from 500,000 children in 1977 to 275,000 in 1985.
- The length of time children stay in care has decreased. In 1977, the median stay was 2.4 years; in 1984, the median stay was 1.5 years.
- The "turnover rate" in foster care has increased--confirming that children are leaving the system far more quickly.

Several conclusions can be drawn from these data. We know that, prior to P.L. 96-272, the majority of our foster care children were, in the main, younger and less troubled, and could, with appropriate early intervention or reunification services either remain with their families or return home. The progress we have made since 1980 is impressive. These achievements, however, must be somewhat tempered by recognizing the growing rate of subsequent re-entries into foster care. We know that today's foster care system is serving a large proportion of seriously troubled youth. The gap has widened markedly between the problems we must address and the resources available to us. So while we can be proud of our progress, we must be ready to face new challenges.

The Child Welfare Population Today

The children and families involved with public child welfare agencies today often have multiple problems and frequently require services from a variety of human service providers. Foster children lag behind the population at large particularly in two areas critical to growth and development. Research indicates that foster children are less healthy than other children and perform significantly "below grade" in school, impairing not only their current functioning but limiting their potential for productivity and self-sufficiency as adults.

Over the last decade, as we have been successful in returning younger children to their homes more quickly, the foster care population has increasingly come to consist of older, seriously troubled children, young children with serious health deficits, children of drug abusing or mildly retarded parents, and children who are mentally retarded or developmentally disabled. Often the child belongs to more than one of these categories. More specifically:

- The preponderance of teenagers in the child welfare system has produced a new set of problems. Teens are much more likely than younger children to be delinquents or status offenders. They have often had extensive involvement with the legal system and will often continue to need such involvement. Serious, long-standing family problems often require out-of-home placement, but traditional foster home settings are usually ill-equipped to respond to the needs of young people nearing adulthood. Further, an older child's family situation may prove so difficult to resolve that family reunification can never occur.

- Advanced medical technology can now sustain and prolong the life of a seriously handicapped infant whose parents, overwhelmed by the magnitude of the problems, may place the child in the care of the public child welfare agency. Infants and children with acquired immune deficiency syndrome (AIDS) and newborns addicted to cocaine, heroin, or PCP present other difficult challenges.

In some states, more of these children with special problems are assisted in the child welfare system than in other public agencies--mental health, mental retardation, developmental disabilities, public health, alcohol and drug abuse, and vocational rehabilitation departments--specifically created to address their needs. Child welfare agencies are searching for ways to bring the special expertise of these other agencies to bear in new service arrangements to respond to the critical needs of these special populations.

Another "special population" consists of nonwhite children in out-of-home placement. Foster care is a traumatic experience for most children, but the system is typically more severe for minority children and their families. Nonwhite children are more frequently removed from their homes and stay in care significantly longer once placed. Older minority children are more likely to leave foster care for more structured, restrictive placements (including group homes, residential treatment centers, detention facilities and jail). Once available for adoption, nonwhite children wait longer than white children for permanent families.

These issues mirror problems in society in general. As far as our children are concerned, there is a special harshness in condemning those already vulnerable to growing up without permanent families.

The Child Welfare Service Delivery System Today

Traditionally, the protective intervention role of the child welfare system has focused on familial problems, generally described as child abuse, neglect, and dependency. The 1980's have challenged this traditional definition.

Public education about child abuse and neglect has heightened awareness and resulted in increased reporting of maltreatment and other social problems. The scope of problems reported goes beyond familial abuse and neglect to include problems such as substance abuse, teen pregnancy, and abuse in correctional and treatment facilities. At the same time, public funding to address such family and social problems has been significantly reduced.

Public child welfare agencies have been forced to intervene in families with problems beyond the scope of public child welfare in order to protect the vulnerable children and youth reported to them. This incremental expansion in governmental authority results from a lack of clarity about government's responsibility in protecting children from maltreatment, and the right of government to intervene in a broad array of family situations. A key issue emerging in the child welfare system today is the confusion regarding the respective rights and responsibilities of government and families when government, in the person of a child welfare worker, intervenes in family life.

Once families needing services are identified, agencies are required to make "reasonable efforts" to preserve families. In reality the services actually available to the children and families involved with public child welfare agencies are frequently inadequate. Given the heterogeneity of the population, the multiplicity of problems, and the inadequacy of funding, it is often not possible to offer services that are aimed at family preservation. The services that are funded are largely directed toward expensive remediation and rehabilitation instead of the potentially more cost-effective preventive efforts. We seem to be better prepared to pay for problems than to invest in prevention.

Of the existing resources within the child welfare system, foster parents are clearly one of the most valuable. But the pool of foster homes (and the pool of citizens from which to recruit) is alarmingly low. The traditional foster care model romanticized public-spirited "volunteers" and paid only a fraction of the cost of rearing a child. With the majority of women today employed outside the home, natural families are hard-pressed to provide care for their own children. And providing foster care is increasingly more difficult as the children needing out of home care become older and more troubled. Recruitment campaigns, no matter how sophisticated, are not producing enough quality homes to meet demand for even the traditional foster care populations.

Another critical resource of the child welfare system is its direct service staff. States are experiencing a diminishing ability to attract the most qualified social workers to public service as opportunities outside the public sector have increased. Many of the best qualified graduates are drawn to more pleasant and more lucrative roles in private practice, in industrial social work, and in employee assistance programs. Insufficient progress has been made to ensure that the salaries and working conditions for child welfare workers are competitive with the private sector. Especially with the changing nature of foster care caseloads, and the increasingly complex, court-based service context, highly qualified, competent workers are crucial to the ability to achieve positive outcomes for children and families involved with the child welfare system.

Problems have been cited regarding service provision, inadequate funding, and the lack of coordination between the public child welfare system and other public service systems and institutions, such as the education, health, mental health, developmental disabilities, juvenile justice, and legal systems. Yet little is done administratively to make structural linkages between systems, and children served by the child welfare system are rarely given priority status by the other specialized service systems. Even within the public-private child welfare system, coordination and the effective blending of funding, programs, and viewpoints of multiple agencies are frequently at issue.

Financing the Child Welfare System

The Federal government's financial support for child welfare services has been inadequate and needlessly complicated. The result is that states are paying a large portion of the total costs of children's services. Based on restrictive program categories, federal funding is spread over a myriad of programs, each underfunded in one way or another.

- When enacted, P.L. 96-272 (the Adoption Assistance and Child Welfare Act of 1980) called for annual increases of $100 million in Social Services Block Grant funds, so that funds would be available for "preventing or remedying neglect, abuse, or exploitation...or preserving, rehabilitating or reuniting families." These increases never occurred.

- In fact, the Social Services Block Grant (SSBG) carries an appropriation of $2.7 billion in FY 88, whereas the block grant was funded at $2.9 billion in FY 81. Just to keep pace with inflation, SSBG should have been funded at $4.2 billion in 1988 in order to maintain the 1981 level of services.

- P.L. 96-272 also called for full funding of Title IV-B (child welfare services) by 1983. This is the funding source used for preventing placement in out-of-home care. In 1988, the program is still far short of the level Congress thought was necessary for services in 1983.

- Title IV-E, created by P.L. 96-272, is an entitlement program supporting foster care placements and adoption assistance. In 1987, approximately $450 million in legitimate state claims had gone unfunded by the federal government, some going back as much as six years. Congressional action with the strong leadership of Chairman Miller has improved the situation, but it will be several years before all past claims are paid, thus continuing the double pressure on state budgets to fund improved child welfare services and to pay for the federal share as well.

- Further, Title IV-E only funds placement services for children whose families were receiving Aid to Families with Dependent Children (AFDC) at the time of placement. This only represents about 40 percent of the children in foster care.

- P.L. 93-247, the Child Abuse Prevention and Treatment Act, only provides about $13 million in grants to states for child abuse programs.

- A very small sum of money--$5 million in the Child Abuse Challenge Grant program--is divided among all the states to match state prevention funds and to support child abuse prevention projects.

- Congress enacted the Title IV-E Independent Living Program for a two-year period with the expectation it would be implemented in FY 87. HHS did not release the funds for the program until the ninth month of the first fiscal year. States must now analyze the "success" of the program with little more than a few months' experience.

- The administration has continued to call for capping the administrative costs of the Title IV-E foster care program. "Administrative costs" in this program are unique in that they include direct service caseworker time: finding appropriate substitute placements for children, case planning and reviews, referral of children and families for services, preparing for and testifying in court, recruiting and licensing foster homes and institutions, and setting rates for institutions. These are the very activities that safeguard children's and families' rights and facilitate family reunification and permanency for children. It is unfair and counterproductive to deny states the use of these funds for the express purposes that Congress meant to encourage and subsidize.

The federal children's programs are currently structured and funded in such a way that states face perverse incentives to place children into substitute care rather than to support families intact. Funding for placement prevention and family preservation services is minimal, while funding for placement services is an open-ended entitlement.

Further, states must piece together a federal funding package for children's services from the sources listed above, and others. The different programs have different goals, different reporting and accounting requirements, and different funding cycles. In some instances, the goals and requirements have not been clarified for states, and in other instances, required program activities have been implemented, but federal financial support has not been forthcoming.

States receive mixed signals about federal directions and support for child welfare services. Policies require comprehensive efforts to promote permanency, but funding decisions undercut those policies.

The Challenge Ahead

In the 1970s, P.L. 96-272 designed a system to fit the needs of the child welfare and especially the foster care population of the times, and that system has been reasonably effective. The 1980s, however, have brought social and political changes that have a substantial impact on human service needs and the delivery of public services. The population needing service today is also substantially different from the population of ten years ago.

Americans traditionally have valued strong, self-sufficient families. We come to believe that government policies should promote self-sufficiency for, and preservation of, families. At the same time that current political rhetoric emphasizes these traditional values, fewer and fewer traditional families exist. More and more American children live with single parents in poverty. Shifts in the economy and the labor market present significant stresses to parents, compounded when financial resources and other family supports are limited.

As families have become more diverse, public laws and policies have not kept pace. Children and families needing services are a heterogeneous group. Attempts to "force fit" people into an outdated system offering limited services are certain to fail. At question is not whether we need to reevaluate today's service response, but how to go about doing so. Fine-tuning existing systems, making marginal program changes, or merely increasing funding may be necessary to address specific problems, but, by themselves, they are not sufficient.

Human service commissioners believe a thorough examination of the child welfare system must address (1) prevention services to preserve families and keep children out of substitute care; (2) services to reunify families once children are removed from their parents; and (3) programs to place children in permanent settings through adoption, independent living, or other alternatives.

In addition, child welfare services must be examined within a context that takes into account the effectiveness of other services for children, youth, and families, including education, mental health, mental retardation, developmental disabilities, vocational rehabilitation, juvenile justice, public health, income assistance, and employment programs.

APWA Project on Child Welfare and Family Preservation

Mr. Chairmen, having just indicated some of the critical questions that need answering in restructuring our child welfare system, let me take this opportunity to announce a major APWA endeavor. We have received a planning grant for the nation's human service commissioners to begin an in-depth review of the public child welfare system. It is our intention to publish a plan of action for comprehensive reform of our nation's services for vulnerable children and their families. Ten years after the passage of PL 96-272 a new look at our family and children's service system is in order.

We will be creating a commission to examine the needs of families and children receiving services through the public child welfare system. The commission will recommend policies and programs to shape the system into the 21st Century. That my colleagues and I, the nation's state human service commissioners, are equipped to conduct such a review is demonstrated by our recent policy development efforts. Mr. Downey, members of the Public Assistance Subcommittee, and others are familiar with our work on welfare reform, including our report, One Child in Four. I would commend Mr. Downey and others on these committees for leadership on H.R. 1720, the Family Welfare Reform Act, which includes many of the proposals made by commissioners in November, 1986.

Many on the committees are also familiar with our Guidelines for a Model System of Protective Services for Abused and Neglected Children and their Families, which serves as a standard for assessing state child protective services, and our recent report, "America's Poor: America's Agenda," setting the agenda for social policy in the next administration.

Our child welfare project will build on these earlier policy development successes. Leadership will be provided by a steering committee of leading public state and local human service and child welfare executives. Our aim is to produce recommendations for legislation to the new President and the 101th Congress.

The project as now envisioned will include a comprehensive evaluation of the existing system of services directed at preserving families and ensuring children's welfare. This will include public hearings held across the country to gather a broad range of views of members of Congress; governors, mayors, and other state and local elected officials; officials from the executive branch; individuals in the field including caseworkers and private service providers; foster and adoptive parents and other parents of children in child welfare programs; judges, lawyers and others in the judicial system; members of the academic community and other individuals with views and experiences relevant to the issue of services for children and preservation of families. The Steering Committee will visit model child welfare programs such as those developed under the Annie Casey Foundation's Child Welfare Reform Initiative, and the Edna McConnell Clark Foundation's Family Preservation Projects.

We hope that our recommendations for a newly designed service system will be helpful to the Public Assistance Subcommittee and the Select Committee on Children, Youth, and Families. We anticipate working closely with members of these committees, and members of your staffs, as you enact child welfare reform legislation in the 101st Congress.

Future Directions

Human service commissioners are prepared to devote a substantial amount of time and energy to this ambitious effort but restructuring the child welfare system will not be a simple task. From what we know already we can anticipate some of the key areas for evaluation and redesign, including program, administration, and financial issues. I will touch briefly on some examples. They represent some of the areas our Commission will explore to form more specific recommendations and proposals. What cannot be done at this point is to describe a well-planned, coherent system in which all the component parts work in concert. That is the product we hope to develop, in conjunction with Members of Congress and others in this room, over the coming months.

Program Issues

- We need to develop a continuum of care for families in which services are individualized and family-focused to meet the needs of the child and the family. This care continuum should draw on many different agencies, be community-based, and ensure service in the least restrictive setting. To accomplish this we need to develop case management systems tailored to individual needs, and provide ready access to specialized case services to support individual service plans.

- We need to continue to concentrate and expand our efforts to build and evaluate intensive home-based family preservation programs. We know from our most recent experiences that such programs, when built around desired outcomes for families, can achieve good results in strengthening families and preventing children from entering foster care.

- We need to refocus our efforts to develop meaningful programs to serve the various populations of children in the foster care system. This can include chemical dependency treatment for the increasing number of children and parents with this problem; specialized programs for adolescents; comprehensive independent living programs; and greater attention to the developmental, sexual, social, and employment needs of older youths.

Some of the ideas and tools to develop these new program approaches are emerging. We need to foster such experimentation and demonstration, and we must be prepared to evaluate their success or failure.

Administrative Issues

- We need to build administrative links within the child welfare system and between that system and other public programs. In building linkages between components of the child welfare system we must recognize that some programs are within the human service agency and others are located in separate agencies. Most human service agencies have responsibility for Medicaid (including the Early Periodic Screening, Diagnosis, and Treatment program), food stamps, AFDC, youth services, and other family and social services. We need to strengthen the links among these programs so that a child or family needing assistance routinely receives an individualized service package with all the appropriate components. In some instances child welfare cases and foster children should be given priority for service. We also know we must devise creative approaches to strengthen the links among state, county, and municipal child welfare agencies so that uniform services are available statewide, while we, at the same time, encourage flexible, community-based service delivery.

  We also know that children in the public child welfare system need better access to such services through other agencies, including mental health, developmental disabilities, juvenile justice, and education programs. One option is for governors to establish workgroups of public agency directors charged with joint planning for children's services.

- We need new systems for evaluating quality programs and measuring compliance with mandates. Let me say a word here about current efforts at improving child welfare administration. Few of us here today are satisfied with the existing national efforts to evaluate the quality of child welfare programs, or to monitor compliance with federal mandates. You have heard testimony indicating that it is easy for states to pass federal compliance reviews, and this simply is not the case. A federal compliance review is a long and arduous process, and it is never entered into lightly by state administrators.

  Part of the problem with existing compliance reviews stems from the failure of the federal government to provide states with standard criteria on which state programs will be measured. With little federal guidance states have been left to develop unique systems which may or may not meet the criteria provided at later dates. APWA and state administrators have testified before both panels on this problem, so I will not go into great detail. I simply urge you to consider this flaw in the operation of the system within the context of your current oversight efforts.

  The real point is not the ease or difficulty with which states pass reviews, but whether existing compliance reviews actually measure the quality of child welfare programs. At the same time I assure you that reviews are neither simple or easy, I can also assure you that they do not measure or assure quality. In the redesign of the child welfare system we must address evaluation of quality and measurement of compliance as separate, albeit integrally related, activities.

- We need new methods to recruit, train, and retain staff and contract service providers. Public sector caseworkers are our society's first line of defense in combatting child abuse and neglect, family breakdown, and other social problems. Public child welfare workers need sophisticated skills if they are to meet the needs of children and families, and if they are to carry out the responsibilities with which they are vested. Those responsibilities are enormous, Mr. Chairman. We need to draw the best and brightest into public child welfare work, and I cannot overemphasize that point. We need better supports, training, physical environments, and communications channels if we are to retain good workers and avoid subjecting them to certain burnout within their first year on the job.

- We also need to support children who are placed in family-type substitute care settings by strengthening the qualifications, compensation, and training of service providers and foster parents. New mechanisms must address the recruitment, training, and retention of skilled foster parents and service providers as well as caseworkers. We have to provide a cadre of professional foster parents, pay professional wages, and provide professional training, if we are to meet the needs of children in the child welfare system.

Financial Reforms

- We need to provide flexibility in funding streams so that services are available to children based on need, regardless of their categorical eligibility. Currently funding is not always available within a public agency to provide needed services. Families are forced to shop for another agency, and a new label, so that they can be helped. This is particularly true of families with children with mental or developmental disabilities. In some states these parents must categorize themselves as "neglectful parents" for their children to be eligible for needed services.

- We need to provide resources for children and families who were not recipients of the Aid to Families with Dependent Children (AFDC) program at the time of placement into substitute care. Currently, only about 40 percent (approximately 110,000) of all children in foster care resided in families eligible for AFDC prior to their placement into substitute care. The remaining 165,000 children in foster care were not eligible for AFDC at the time they were placed in out-of-home care, therefore they are also not eligible to receive Title IV-E services. Linking eligibility for placement prevention, reunification, or permanency services to the AFDC program prohibits the majority of the children in foster care and their families from receiving federally funded services.

- We need to assure funding commensurate with programmatic expectations and Congressional mandates. Serious attention should be paid to assuring full federal funding for child welfare and social services. Title IV-B child welfare services and the Title XX Social Services Block Grant are now funded at levels significantly below 1980 authorizations and existing service needs.

- We need to develop an explicit federal plan to make the transition from funding primarily rehabilitation and remedial services to funding preventive, in-home services. Given scarce resources, choices must often be made to concentrate available funds only on those children most seriously at risk. Unfortunately, financial support has deteriorated to the point that we sometimes provide such services only after the point at which preventive efforts could have helped remedy a family's problems. We do not recommend taking funds out of remedial programs for children at risk of abuse or neglect. States nonetheless do need support in order to invest more funds in preventive services so that a family can be helped when the problem is first identified. Such investments in prevention promise significant payoffs in healthy families, healthy children, and lower remediation and rehabilitation costs down the road. One viable option for increasing federal investments in prevention activities is to expand the Title IV-E foster care and adoption assistance to include family preservation and placement prevention activities.

Mr. Chairmen, APWA and the state human service commissioners are committed to sound, compassionate policies with regard to the health and welfare of vulnerable children and youths. I know you both share those concerns, and that commitment. Thank you for the invitation to appear here today. I hope we can work closely together as you conduct your oversight and we engage in our major reevaluation of policies on child welfare and family preservation. I hope I will have another opportunity to appear before you when that project is completed, and we are prepared to make major recommendations on policies to shape the child welfare system of the future. We look forward to working with you as you craft legislation to meet the needs of vulnerable children and their families.

I will be happy to answer your questions. Thank you.

Acting Chairman DOWNEY. Well, I don't think we could have a more stark set of hearings than the last witness and this current group of witnesses. I want to thank you all for your testimony.

Mr. Miller, why don't you inquire first.

Chairman MILLER. Just a couple of questions.

First what I am hearing from local people and from State people in California and in other States is that we are moving children around in the hunt for dollars rather than services. The idea is that if you do come within the juvenile justice label, you get services, but if it is mental health, you don't get services. The competition that is occurring among the agencies almost appears self-destructive in a sense.

My wife, who is sitting here watching these hearings, is on the local mental health advisory committee. She wrote me a note that says "How do we assure that the money that is going to our area is going to be spent on child counseling? Is it going to be family counseling? Will it come out of the adult budget? or the child's budget?"

You get into all these squabbles. Somehow we lose the child, the family, and everybody in the process. One of the things you have all testified to, and, Ruth, obviously you are in the vanguard of this, is this notion of unifying these services and focusing them on the child or the family, or whatever is necessary.

But we need to erase these arbitrary jurisdictional lines, some of which I am sure we set up and some which the State has set up.

There is interest in these intensive programs which is starting to have a track record of successes of working with those families. We really have to consider those programs.

I was shocked when Mr. Downey asked if Ms. Olson could point to successful programs. The fact is, David, as you point out, we have communities all across this country in States that are creating successful programs. But they are starving to death.

There is no ability to replicate. There is no ability to make a generalized program. It is all done under the notion of pilot money or one-time grant money. We know the answer.

I think that is what has come out at these hearings. As my wife points out, we are just fighting one another rather than delivering services. That is not to suggest there is enough money even if it was all well-coordinated. We know that these children bring more problems, whether they come from the juvenile justice door, the mental health door, or out of the hospital door.

We have to deal with them. They have to be dealt with on a comprehensive basis if we are going to have any success. These labels really have to go.

Dennis, you mentioned something we were trying to talk to the previous panel about. That is, you said several times in your testimony that there is very little guidance given from the Federal Government about how to determine what services are acceptable and unacceptable. How do you know when you are not providing them or when you are providing them.

Mr. WALCOTT. That is correct. I think this morning just reinforced it to me by the reactions to the questions. Quite frankly, it scared me this morning listening to the reactions because down at the community based level, where we have an agency and look to our local government, State government, the Federal Government for guidance, it shows us the vacuum we are operating in as far as I am concerned.

Yes.

Chairman MILLER. What is interesting is that in 1980 there were proposed regulations for this program. At that time, the program said that you must include the following services: 24-hour emergency caretaker and homemaker, day care, crisis counseling, individual family counseling, emergency shelters, and other services which the agency has identified, home-based family counseling, respite care. The fact is that that was the package of services that IV-B was supposed to offer and require. The theory was we would trade that off for increased growth in maintenance money.

Now we are back 8 years later to watching a juggling of maintenance and services. It appears we are going into the spiral of IV-E growing for maintenance.

As you point out, the inability to use some of that money for services which we thought were going to be provided in IV-B has been a problem. That idea sounds very prescriptive to a lot of people.

The fact is that is what you are doing in Maryland. It is interesting.

I have a note here. The Governor in our State just signed into law a program to provide for three counties that are based essentially on your model. Again, the States have always been willing to move in these directions.

They are living with the problem 24 hours a day. What struck me this morning was the abysmal record of this administration of helping the States or talking with them. I don't know how much time you spend with this administration.

I get the sense that it certainly can't be much because they don't know anything.

Ms. MASSINGA. Well, I think you are right, Congressman Miller, that the innovation occurs at the State and local levels—and none of us at the State level is saying we have all the answers.

There are clear differences between urban centers and rural areas and how one approaches these problems.

We have a lot to learn about it still. That is why we are pulling together this commission to look at the issues in a systematic, hard way, what is it we need—how do we need to treat these families differently. Nonetheless, for a while there were abilities at the State level to, in fact, in the early years to shift the maintenance dollars into prevention efforts.

That was when you had the dramatic decreases in the rolls. The kids were less difficult to deal with. They were less costly to manage.

We were able to transfer some of those dollars. Maybe we kept the budget neutral but we were transferring dollars from the back-end of the system, the maintenance end, the front end.

Now, we are doing both at the same time. That is terribly difficult to convince legislators to do, to convince governors to do.

Fortunately, we have been able to do that so far in Maryland, but it becomes burdensome. If there is no Federal relief such as we are proposing here, I think States will find it more and more discouraging to try to do both simultaneously.

Chairman MILLER. I assume that what you are telling us is that you are not going to be able to reduce the case load of your intensive counseling program, absent some kind of additional funding? You are reducing case loads to 6 as opposed to 60?

Ms. MASSINGA. That is exactly it. We have, in fact—the Governor gave us money to go statewide with that program this year. The General Assembly endorsed that request. But I already know that if I continue to try to do that and bring case loads down even further than one to 20 which is the average Statewide, then I am going to start to get up against the wall.

If I have no creativity in terms of use of Federal dollars such as IV-E dollars, it will be harder. Yes. Then I will finally not be able to get the case loads down as low as I want, as well as do some of these other things to assure quality case-work staff.

Chairman MILLER. Thank you.

Ms. ALLEN. I think another followup on that is the State of Oregon. It is a good example of a State that has started to redirect dollars. In 1980 and 1981 Oregon started an intensive family service program. Throughout the last 6 or 7 years, the State has financed that program by redirecting its foster care dollars. They now have about $3.4 million in the intensive family service program, but they have hit their limit and they have found that they can no longer transfer funds from foster care. They need the dollars there as well.

Chairman MILLER. Where did they find the money?

Ms. ALLEN. They transferred them from maintenance to services. By doing so they were able to increase the dollars available for intensive family services over the years. But they have now reached a cap. There is an increased recognition that children in foster care need better care, more expensive care as well so foster care dollars are also in greater demand. There really is a need to move on improvements at both ends of the system.

Chairman MILLER. Ms. Dondiego, I want to thank you for your testimony. I think some of the points that you have raised and that other foster parents have raised throughout these hearings are absolutely crucial to the success of this effort to get these children into decent foster care. That is the professionalization. We cannot continue to rely on a foster care system where policy makers have a vision that may be 60 to 70 years out of date in terms of the kind of children that we are sending you and the difficulties in training.

David and I have shared forums where he has raised these points. Training and professionalization of foster parents cannot be more important in terms of the wise use of our dollars and the reimbursement rates.

We have to stop believing somehow foster parents are the only people in the system who financially should not be taken care of. This notion that the lawyers, the doctors, the judges, the social workers, and everyone else gets paid but that a foster parent has to lose money is an outrage. For the money that you save us by caring for those children, there is no question that the cost benefit is great in terms of dollars.

We are working with Senator Bradley on the catastrophic health care bill and on the question of what AIDS-related babies mean in terms of respite care and in terms of designing a specialized foster care training, and all of the support services, if we are going to move these children out of $6,000 and $7,000 hospital rooms. We have to put them in the skilled facility. That means training. That means services.

I hope that will happen, because your State, Congressman Downey's State, and California certainly are terribly worried about that, as are the hospitals.

That requires, again, a recognition that that child is entitled to skilled care. It is not enough to send them off with all of the complications and the tragedy that has been visited on those children. It may be that the drug-related babies require even more skill and more respite care for those families.

I think we have to recognize that there is a key professional component to success here.

Mr. LIEDERMAN. Mr. Chairman, I wanted to make a point and support what you are saying. I think we are kidding ourselves. I was appalled this morning that the Assistant Secretary could not forcefully say we need more resources, that we do not have enough resources. We need more dollars for kids.

If we think that doing this is cheap, that we can do it for cheap, or that we can continue to do it for the kind of money that is being put on the table, we all have rocks in our heads and are all living on another planet.

Dennis is out there in the trenches every day with his staff; Ruth is in there every day, her people are out there; and I spend a lot of my life out on the streets working with kids. I have a sense of what it is out there.

Some of these programs, a lot of these programs cost money. They are expensive. Any more expensive than SDI? No. No.

Chairman MILLER. I don't think you have to compare it to SDI. You can compare it to the existing system. We are not only wasting a great amount of money, but we are wasting a great amount of lives because there are so many children not getting services. They are not jumping off the edge of the Earth. They are coming back every day.

The tragedy is you heard Mrs. Kennelly and Mrs. Johnson talk about their State. It is out of compliance with a part of their program. They assume it is technical. They don't know. The Federal Government never comes back. Once they find a State out of compliance, they don't come back and tell it how to correct the problem. You are in limbo. You don't know.

It is not a question of just trying to be assertive. One of the things we heard from the State people in the previous hearings was, as you point out, that there is no guidance in how States should meet the Federal requirements as lax as they are. It can obviously be very costly. It is costing the States $15 to $20 million in disallowed expenditures. There is no reason that the problem wouldn't keep repeating itself, because there is no technical assistance provided to States to bring the system into compliance.

Mr. WALCOTT. Mr. Chairman, there is a lack of vision, as well. This morning they talked about their planning around boarder babies and AIDS. In the trenches that happened 2 years ago, a year ago. We are responding to that. It is important for us to take a look at that because then as a direct-service agency, we have to look to the city and the State sources for funding for the response to that.

It is costing us and you more money in response to after-the-fact planning instead of responding in a very visionary and planned manner to those types of crises.

Ms. DONDIEGO. May I add one thing? I didn't and I want to.

Mostly when we talk about AIDS, the foster parents in New Jersey and our agency, we are talking about the infants born with AIDS. I can tell you what nobody is addressing and that is why things have to be coordinated and somebody has to get these people together.

Nobody is talking about adolescents with AIDS. Nobody is talking about confidentiality issues. Nobody is talking about liability insurance for residential centers and others. If that doesn't happen, like the gentleman from New York said, we are out there trying to deal with it and there is nobody making any regulations, giving any guidance. It is almost like keeping the mother and child together.

We are winging it, but what will happen when something terrible happens? Somebody has to make that decision. I don't know who is supposed to make it or who can make somebody make it, but I don't think it is the foster parents or the local agency. I think we need some help here.

Chairman MILLER. Thank you very much.

Acting Chairman DOWNEY. I don't want to take too long.

Mr. Walcott, I would like you to tell me about how your program works. I am anxious to know, from a resident of the State of New York, that we have enormous problems in the city. While I don't represent the city, I am delighted to know and am encouraged by the fact there are people like yourself and agencies you represent that are attempting to deal with these problems.

Do you provide the same level of intensive services Mr. Liederman talked about?

Mr. WALCOTT. Unfortunately, I would love to provide services to a 1 in 6 caseload ratio, but we cannot do that. We have moved in the direction of providing more expensive services.

For example, we started a new program called the sexual abuse program. That is for children and their siblings who are sexually abused. We have established a caseload ratio of 1 in 10 for that particular program.

Chairman MILLER. How are cases referred to you? Do you have a contract with the city?

Mr. WALCOTT. With Special Services for Children. They are aware of our program. They will refer those children who have been sexually abused and also the siblings of those children to our agency.

What we will be doing is applying a holistic treatment. What I mean by that is working both with the natural family members as well as the extended family members and the foster families in a combined therapeutic setting where we have mental health practitioners involved, foster parents and everyone involved in the overall planning and oversight of this particular program.

We are doing this more through foundation grants. We received a special grant from the borough president of Manhattan. We have been able to apply the intensive training involved in this project. That is one type of effort.

We also just got involved in a program dealing with a shared relationship between the Department of Employment and Special Services for Children around independent living. I think I was down here March 31 on behalf of the Child Welfare League of America talking about independent living. We are venturing out now working on a venture with the Department of Employment around working centers for the youth in foster care. We have a very active independent-living program.

I think one of the things we are finding very difficult goes back to what I talked about in the testimony, around the allocations of money both on the foster care side versus the preventive side, the $400 million versus the $41 million. For example, at my agency, I have a $6 million budget. Of that $6 million, approximately only $400,000 is allocated for preventive services. That is based on a historical contract.

What we have done to try to adjust to that particular restriction is to be creative and eliminate some staff lines and deal with some intensive programs around working with the natural families. For example, hiring foster parents to serve as parent aids to work with those natural family members around parenting skills and issues in that area.

Again, we have intensive work in preventing foster care and having those children stay at home. Having day care advocates working with our natural and extended family members around day care issues in New York City. That way, again, intensive services can be provided at the front end so we can again respond to that.

With the foster parents, I am glad to hear what she said about the training. We have undertaken a very active foster care training program involving our social work staff in joint planning around the training with the foster care people. That way we have the participants, the staff, the board of directors, and the foster parents involved in the training around common issues. It is a partnership. We break down the parochial barriers.

Those are some of the things we are trying to do at the agency based on funding restrictions, based on the accountability requirements, based on the issue of quantity versus quality.

In New York, again, we are assessed through what they call the program assessment system. We try to balance the quantity and the quality, and make sure our children benefit.

Acting Chairman DOWNEY. How many kids do you think you miss in Harlem? Are you just taking a few or literally tens of thousands?

Mr. WALCOTT. The reason I was turning around, our representative from Congressman Rangel was in the audience before. We miss tens of thousands of children. Luckily, and this goes again back to the testimony through community-based services, there has been the establishment of other community-based child welfare agencies in New York. So hopefully we are making better inroads in trying to get to those children.

Acting Chairman DOWNEY. I am also appreciative—I get to the city a lot. I will come visit you sometime soon.

Mr. WALCOTT. Please do.

Acting Chairman DOWNEY. I would like to see how you do it.

I am concerned that with the level of enlightenment we have here that it is possible to attempt in any way to reward the people who are part of the foster parent program in ways that make them feel good about themselves.

I am not quite sure we have done the sort of job of recognizing the individual American heroes that work in the system on a regular basis who are social workers who face on a daily basis hopelessness, but manage to keep their chins up and help the families that they see.

Ms. Dondiego, what does New Jersey do? Do you have a program where you recognize outstanding contributions of foster parents——

Ms. DONDIEGO. Yes. Well, each May—in fact, on May 18 this year—we have a foster parent recognition day. In return, the New Jersey Foster Parents Association has a statewide conference at which we recognize our agency staff.

Acting Chairman DOWNEY. Do you know if other States do that?

Ms. DONDIEGO. Some do, some don't. This year we put a push on other States to write to their Governors and even ask for a proclamation designating May as Foster Parent Month.

This is the first year May will be Foster Care Month nationally. We understand the President is going to sign that. Hopefully—and that is the piece foster parents can play. I think most foster parents and agencies have a bad image. These people are good. There are agencies who are doing good things. There are good foster parents. There are good staff people. Everybody only hears about the bad guys.

I cringed when you said foster children were being abused in foster homes. That bothers me. I know it is true. But do we look at why it happens and what are we doing about it?

I was very frustrated this morning. I didn't mean that maybe they couldn't get any more money or they couldn't implement programs, but the fact they couldn't sit here and say they asked. I am willing to ask you.

Mr. WALCOTT. Just to respond about the recognition in other States, New York, as much abuse as Special Services for Children takes at times, they have been progressive in moving in the direction of recognizing foster parents. Just this last Friday they had a special recognition reception and dinner at the Equitable Life Insurance Co. for foster parents who have AIDS children. So they went out of the way. They had celebrities there, received media coverage as well to build up the public perception around foster parents and the tremendous job they are doing.

Acting Chairman DOWNEY. I wanted to say it seems to me there are a number of innovative things we could do that would not cost us a lot of money but we would go out of our way to appreciate them.

The President, for instance, annually recognizes the contributions that people make to the arts in a fairly well-publicized and glamorous process at the Kennedy Center. There would be no harm in picking 50 individual parents from the 50 States to come and be recognized for their outstanding contribution or the social workers during that same period of time. It would be a showcase of the work people have done.

It would not cost us anything, and might mean a great deal to the people out there who really are starved for recognition.

Ms. Dondiego. I think it would be a great thing to do for anyone who works with children and families and not just limit to foster parents.

Chairman Miller. We could even give congressional awards. We don't have to wait for the White House.

Ms. Massinga. We would urge you to.

Mr. Walcott. I think it is a key point. Social workers, we are losing social workers in record numbers right now. The crisis is increasing. The numbers of social workers in the field are decreasing. We have to devise a very coordinated strategy to try to attract people back to the field. An idea like that would help.

Acting Chairman Downey. It concerns me.

You have all made some excellent points about how the law can be changed. In my opinion, in the event that you have a President Dukakis, then you are likely to have people who are prepared to shake the agency up, but they can only be as good as the people in the States and the people in the trenches are prepared to allow them to be. You can only ride herd so often. If the people aren't there to work in the counties and cities, it is not going to work if the parents aren't there, foster parents. So we are very interested.

I would be interested in exploring with you some tax suggestions. I would prefer for us to directly finance or help foster parents not lose money, as George has pointed out.

I am also prepared to offer them some additional forms of deductions that would probably cost us some money but might be very palatable as well. If you should think about that, you might do that.

I also want to add my thanks to all of you for the work you have done.

My other concern, however, is that if we change this law, this law is a pretty good one, and require more regulation and we don't have an administration that wants to follow this law, that we have really kind of lost the battle before it is begun.

Mr. Liederman. Mr. Chairman, I don't think we need more regulation. I really don't. I think we have all the regulation we need at this point. As a matter of fact, if anything, we could probably do with a little less regulation.

We need to open up IV-E and get a flow of money that is an entitlement and that comes into the States. Hopefully if there is an administration either Democrat or Republican, who is sympathetic to this law and who will enforce the law, we have a fighting chance.

Acting Chairman Downey. You could be assured that between George's committee and the committee that I am currently chairing we are not going to wait; we are going to try to have some sort of annual review process of what is happening so that at least there will be a level of accountability at some point.

Mrs. Johnson.

Mrs. Johnson. Thank you very much, Mr. Chairman.

I want the panelists to know that I consider these to be about the most important hearings that are going on on the Hill right now.

First, this system is failing children and families even more seriously than our welfare system has been failing families in America.

Furthermore, also like in the welfare area, you actually know what the answers are. You are out there doing it.

Government needs to catch up with what you know about families in need and in those circumstances where you have very aggressive and assertive Members that both sides of the aisle involved in this issue and the private sector has the answers—that is when we have the best chance of making good change.

But I believe that we will not make the kind of change we need—I fear that we will make the kind of change that provides some more money, a lot more guidance, a lot more regulation and is going to end up with this kind of antagonism between the Congress and the executive branch another 10 years down the road.

I say that because as a Republican in a very Democratic State, and clearly committed to children, in 1980, I tried to get a new program in place that takes parent aides, a crisis intervention team, so we could demonstrate that we would prevent the outplacement of children, that we could save money and do better for children.

Instead of $750,000, we got the new program through for $50,000.

Since then, that program has grown, but very little.

This is not a partisan issue. The future of foster care and children in America is not going to rise or fall on whether Dukasis or Bush is President because each President is going to very much face the same budget constraints, and they are severe.

Now I think if we don't address that and if we don't keep that firmly in mind, then we will not make the hard decisions and some of the hard questions I want to ask now, because I think they are exactly the kind of thing we have to deal with or we won't have a better program.

We not only have to get more money, and a lot of us will fight for more money, more or less; I wouldn't want George to be contaminated by the idea that someone might want more money than George wants, but it is also an issue of how do we spend it.

The reason I couldn't succeed with a program that had scores of people out there dealing with children and families behind it and all the leadership saying to me this is what we need to do—the reason I didn't succeed was because the State bureaucracy, and God bless it, we have had a lot of very good people in our State bureaucracy and good leadership—but they couldn't deal with the fact that a lot of our money was going out to respond to reports of abuse, a large percentage of which were fallacious, and they couldn't deal with the fact that they had to set some priorities, and at some point government has to say, "This is more important than this."

I hear you exactly about the money thing and the IV-E versus IV-B.

I have been hearing that from my own advisory committee and we ought to be capable of making that change and getting more money in there.

Whether it could be an open-ended entitlement, I can't comment on at this time, but that is not enough because if we change the law and we put a higher regulatory burden, more of the money we appropriate is going to go into administration, not only administration here, but at the State level.

So we have to look at how we are spending it, and in doing that, I think at least two hard questions occur to me: Should we in rewriting this law put some priority on the family preservation services and say by a certain date you have to have at least these in place? These get your first dollars?

Now, you have to be willing to stand up to the fact that there are things that are going to get second and third dollars, but if we don't do that, if we don't purposely bias the law toward prevention and preservation of families, you are going to get what we are seeing now; our resources dribbled out over the whole 24 categories of services that would be nice to have for children.

I am not saying that it is a frill. What happens is you let the bureaucracy set the priorities then, and bureaucracies set priorities just the way this one did.

It is easier to judge whether the review was done in thirty days after the placement, whether the next step was done in six months, in 18 months—those are more measurable.

It is so much harder to deal with quality, so much harder to deal with appropriateness, and very hard for the Federal government to see whether the State government is dealing with you guys about whether you are doing it right.

We have to be honest about that. How far can we go in putting a priority on and how should we say that? Should we outright legislate that in order to qualify for these programs first, over and above information referral or whatever systems are required; first States have to have strong family preservation programs in place, and that the funding of those has to be the first step. That is tough stuff.

We have never done that before, but I am telling you if you don't give us some help in setting priorities, with this Nation's deficit and with all the States' constraints, with the States' abominable records in this area—most of the States have Democrat Governors.

Has that guaranteed children services? Not on your life.

If you think a Democratic administration is going to make a big difference—it may make some difference, we may give $200 million rather than $100 million, I agree—but without a doubt, you look at the track records of States with longstanding Democrat administrations, and you don't see what we need.

So we have got to get away from the partisan thing. We have to get in place a program that will best use the dollars we are putting in and we need your help.

Maybe we shouldn't be asking the State to review whether the case plan is in place in a month and 6 months and 18 months—the Federal Government—maybe we should be reducing the number of things they have to check of that type of item and increasing the requirement for not only prevention services, but for some onsight/oversight of prevention services. That is expensive.

I am for it, but that is the kind of thing we need to deal with.

Second, we have had testimony in these hearings to the effect that 70 to 80 percent of the families whose children end up being placed out of the home at least one family member has a significant alcohol or drug dependent problem.

Do you feel that we have enough arm in the Federal law? Obviously from the way I asked the question, my answer is no.

If you feel this, I think we have to deal with it. I don't believe we have enough arm for Government to say, "Your kid is about to be placed out. You are going to go on an alcohol treatment program, and if you don't, you are going to be in contempt of court."

Some alcoholics who abuse their children are also employed. There is a certain arm that society and Government has over those people.

We have no power in the law to force family members of children who are in tough straits to participate in drug treatment programs, in drug dependent programs.

We have no way to punish them. We have no way to go after them. We have no way to attach—I don't know what we want to do, but we should be thinking about it and put some arm in there to be able to force families to cooperate, force families to participate.

They don't take it at first, but you know from your experience and I know from my experience, even families that resist it, some who resist never participate emotionally, but some who resist after a short period of time do actually get involved and find this is going to help them and they are thrilled.

How much more arm do we need? What is the nature of that arm that we need for family participation in family counseling, family participation in alcohol and drug treatment programs?

How do we get the family to be a part of that team in the preservation process and how do we alter our Federal law so we put some preference on preservation so that we overcome what is a deep-seated and nonpartisan institutional bureaucratic bias against this kind of program.

Ms. MASSINGA. Maybe as one of the oldest bureaucrats at this table, I can respond to the issue of bureaucratic bias.

I think part of what you say is absolutely right and I think the Federal law already shows a bias toward prevention.

You have heard us say that States are interested and willing to pursue a bias toward prevention. I think the work that APWA's commission to look at this will give you suggestions.

I would be very comfortable with some discussion of a revision of law that talks about showing some progressivity of preventive expenditures and tilts toward putting most of your energies toward the front end.

You can't do it overnight, however, because the same taxpayers that beat on bureaucrats to put more money and more emphasis on prevention want to know, "How come Little Johnny that I saw wandering down the street isn't in a foster home today ?"

We know most citizens are going to be responsive to families and kids that are in trouble today. I think it is right for the Congress and for the citizenry to see us move toward prevention putting more and more of our dollars there, which is why we are advocating for a change in the way the IV-E dollars will be spent because I think you will see the dollars following the service patterns.

Mrs. JOHNSON. You are saying that any new money that we put into IV-E——

Ms. MASSINGA. I am saying what is a fair thing, I believe, is to show over time—one can figure out what the time frame is, but States should be showing over time some progressivity in moving dollars from the maintenance ends of the budget to the preventive end.

We can look at that in terms of need—one can figure out how one does that.

I think States would be interested in that because they are putting their own general fund dollars, limited though they are, into whatever is being spent for prevention and in the case of Oregon, they are tapped out.

Mrs. JOHNSON. I meant that recognizing that we won't put as much into IV-E as we ought to be next year and the next year, should we attach to the new money something that prejudices it somewhat more?

Mr. LIEDERMAN. IV-E is an entitlement.

If kids come into the system, you have to come up with the money.

What we are saying is that we think that that same system, that the State or the county, whoever the administering body is, ought to have the flexibility to use the IV-E money either for placement or for pre-placement prevention——

Chairman MILLER. Are you willing to offset that against maintenance. Otherwise, we are just running two entitlements here.

There has to be some offset against the entitlement. That is why this law called for a cap on maintenance; that was the intent.

Mr. LIEDERMAN. I guess I am saying that I am not sure you want to start with the offset. I think that to provide the intensive family support——

Chairman MILLER. But there has to be some tradeoff between continuation of a maintenance entitlement and the effort to improve services. Whether you want to steal it from IV-E or we put a billion dollars into IV-B, it doesn't make a difference.

There has to be a tradeoff so we are comfortable that you are moving children out of this system into permanency.

Mr. LIEDERMAN. There is an entitlement difference.

Chairman MILLER. Perhaps IV-B should be the entitlement and IV-E should be capped.

Mr. LIEDERMAN. You can play with that, except how are you going to cap it if kids keep coming into the system?

Are you going to say no to a kid that needs foster care? I don't think we should start with caps.

Chairman MILLER. We have a phase-in period of time.

This administration never put the money into IV-B and now we have to start over. Otherwise, we would be there by now.

Mr. LIEDERMAN. If you phase it in and you work up to it and you are monitoring and you have an administration that is working with the States, the States are doing a lot better today than they were 10 years ago.

The States, probably in self-defense, have developed a whole lot of programs and are putting State money into programs they never put State money into before.

So there is a lot of good stuff going on at the State and county level—and if we had an administration and a group of people in Washington, the kind of stuff that APWA is doing and the Child Welfare League is doing, the Government should be doing.

The kinds of things we are doing to try and encourage the States and the counties to develop family support services every day—the Federal should be doing that with the States.

What is so hard about that?

Acting Chairman **DOWNEY**. Mrs. Johnson is going to be given the last word until 2 o'clock.

Mrs. **JOHNSON**. I am the only minority panel member to question this panel. I have one more important question.

Acting Chairman **DOWNEY**. Please ask it.

Mrs. **JOHNSON**. Back to this other issue.

The seriousness of it is that the Congress is very sensitive on the entitlement issue.

The likelihood of our getting—being able to transfer these responsibilities to IV-E without the Congress at least capping the new money or making some compromise so that they have some control over this from a budget point of view is not great.

So I think we should not pretend here that all we have to do is switch it from one fund to another.

It might be a reasonable thing to consider and you can get back to me, but if we move the function to IV-E, but we also modify the entitlement language so—I am not sure how we do this—but so that the money for family preservation was kind of an additional set-aside; in other words, we are going to have to find some way to constrain the rate at which that entitlement grows in today's budget circumstances—otherwise, we are not going to make the degree of change that we need to make.

Let me get on to the second problem. How serious is the need to give service organizations, people out there on the front line, some greater power to compel family participation, and particularly family participation in drug and alcohol problems?

Mr. **LIEDERMAN**. I don't think you need to compel it, Congresswoman Johnson.

My sense is that—and I have worked with a whole lot of families in my career—that people want help, that if the help is given sincerely and effectively, that people will accept it.

A lot of drug users and alcohol abusers, they might not be ready, and that is a problem for them and for their kids.

There isn't anything that we can do with an alcohol abuser or a drug abuser by beating them over the head—

Mrs. **JOHNSON**. For instance, can you outplace the parent? If the mother could probably function pretty well, if the alcoholic father could be forced out—we come into this with rape and spouse abuse.

At what point does the abused spouse—at this point, she has to be outplaced. Do you need authority for instead of the child being placed out, a parent being placed out?

Mr. **WALCOTT**. I concur that I don't feel there is a need to mandate. I think the parents are willing if the services are available to try to rectify the situation and a problem they may be experiencing.

We are finding in the field, those services, alcohol and drug abuse, especially in New York City, with the proliferation of crack, those types of services are not available and that directly impacts on the children and there is a direct correlation to alcohol and drug abuse and child abuse and sexual abuse.

Those types of services are connected and we aren't in a position to try to provide the necessary treatment to these families.

Ms. **MASSINGA**. It is all the more frustrating if the parent wants the service and it isn't there. We would warn against mandating anything, especially if you can't provide it.

Ms. **ALLEN**. Something we suggested earlier was to look at the range of drug abuse funding sources within the Congress and see if we aren't at the point where we can target some of that money to go specifically to child welfare agencies so the families that we are dealing with can have access to programs that they don't now have access to.

We need to look across the range of Federal programs for help with these families. Sometimes we tend to stick within our IV-B, IV-E and title XX programs, but if we are really serious about addressing these broader problems as they impact on the system, we have to look at broader programs as well.

Mrs. **JOHNSON**. Some had pointed things to say about our suicide prevention dollars.

Mr. **SCHWARTZ**. That is right.

Mrs. **JOHNSON**. Thank you very much for your input. It is very good input and very fine work that you are doing and we hope to work with you in the months ahead.

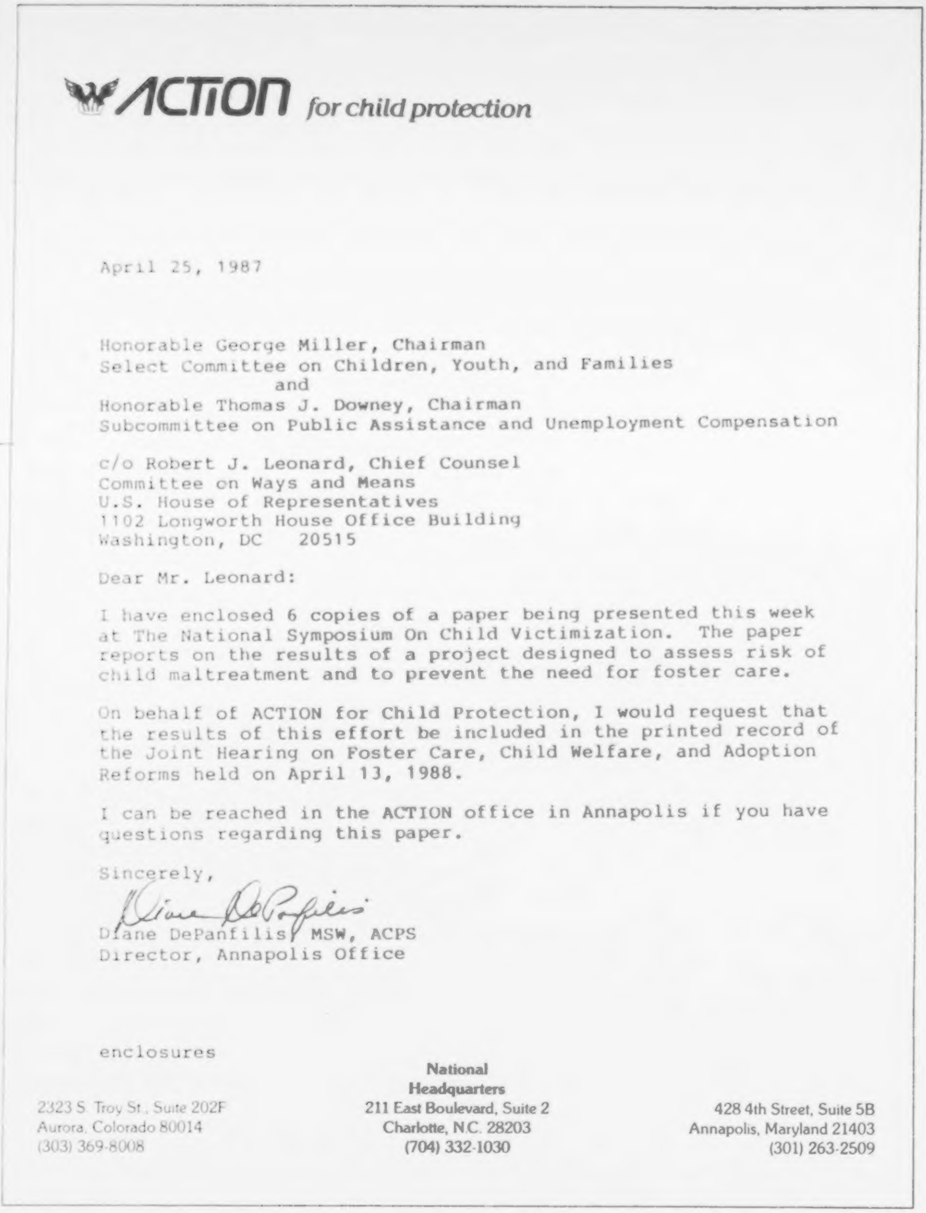
Acting Chairman **DOWNEY**. The Chair wishes to thank Mrs. Johnson for staying so long and asking such good questions and also the help of the staff, without whose efforts we would not look very intelligent.

Thank you for testifying. You have given us a great deal to think about and we will think about it. This is a system in desperate need of change and help and we are going to do the best we can to improve it.

Thank you.

[Whereupon, at 2:05 p.m., the hearing adjourned.]

[Submissions for the record follow:]



ACTION for child protection

April 25, 1987

Honorable George Miller, Chairman
Select Committee on Children, Youth, and Families
and
Honorable Thomas J. Downey, Chairman
Subcommittee on Public Assistance and Unemployment Compensation

c/o Robert J. Leonard, Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

Dear Mr. Leonard:

I have enclosed 6 copies of a paper being presented this week at The National Symposium On Child Victimization. The paper reports on the results of a project designed to assess risk of child maltreatment and to prevent the need for foster care.

On behalf of ACTION for Child Protection, I would request that the results of this effort be included in the printed record of the Joint Hearing on Foster Care, Child Welfare, and Adoption Reforms held on April 13, 1988.

I can be reached in the ACTION office in Annapolis if you have questions regarding this paper.

Sincerely,

Diane DePanfilis

Diane DePanfilis, MSW, ACPS
Director, Annapolis Office

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RISK ASSESSMENT AND ENSURING CHILD SAFETY: ALTERNATIVES TO CHILD REMOVAL

INTRODUCTION

During the past ten years we have witnessed major changes in the child welfare system in this country. Once a system where large numbers of children were placed in out-of-home care, most child welfare professionals today would agree that children are best served with their birth families when the child's safety can be assured.

In response to this major shift in philosophy, an increasing number of states are establishing family preservation programs to work intensively with families to prevent the likelihood of child removal. Federal requirements to demonstrate reasonable efforts to keep families together further reinforce the movement to prevent unnecessary placements of children.

At the same time however, child welfare agencies are concerned about their liability vulnerability when they make decisions to leave children at risk of child maltreatment with their families. This report summarizes the results of a demonstration project funded by the Edna McConnell Clark Foundation to test a system for assessing risk of child maltreatment and exploring alternatives for ensuring child safety.

The total project included: (1) a review of state policies, research, and the literature related to safety decision making; (2) involvement of an expert panel in formulating the key factors which would likely jeopardize a child's safety once risk of maltreatment was identified; (3) development of a decision making model (The Safety Determination and Response Worksheets); (4) testing of the instrument at a pilot site; (5) evaluating the results of the model's use on casework decision making; and (6) refinement of the safety worksheets based on the pilot test.

This report will briefly summarize the major findings of the pilot use of the safety tool. The Safety Determination and Response Worksheets expand on ACTION for Child Protection's "Child At Risk Field" (CARF) system, a family preservation approach to risk assessment and decision making in Child Protective Services (CPS) and Child Welfare Services (CWS).

MODEL DESIGN

A major premise behind the safety model development was that CPS staff are often in the position of having limited criteria on which to make decisions about whether to leave children determined to be at risk of maltreatment with their families. As a result, it was believed that rather than take the chance that children might be severely maltreated, some children were being placed in out-of-home care unnecessarily.

Definitions

For the purpose of the CARF model, "risk" is defined as a determination that a child is likely to be maltreated in the future. In designing the safety tool, it was believed that "risk" needed to be distinguished from "safety." Safety was defined as the present well being of a child who has been assessed to be at risk of maltreatment. Safety is assessed by determining: the controllability of risk influences; the immediacy of the risk of maltreatment; and the likely severity of the potential maltreatment. Using these definitions, it is believed that some children at risk of maltreatment are presently safe (given that ongoing risk reduction services will be provided) and others are not and therefore require an immediate agency response designed to control safety and, if possible, to preserve the family in tact.

Safety Determination

The Safety Determination Worksheet was designed to assist staff to make a determination regarding whether a child's safety is in jeopardy. Key safety influences determined by research, literature, and child welfare experience are identified for the worker to make this determination for all cases in which risk has already been assessed to be present. Based on field testing of this instrument by the pilot agency, the list of influences has been further refined and categorized on two levels: influences which in and of themselves indicate that a worker should design a safety response and other influences which in combination indicate the need to design a safety response. Family strengths, also identified on these worksheets, are used to document why a child may be safe or to be maximized in the design of a specific safety response. Specific safety influences are listed on Section I - Safety Determination Worksheet and included as Attachment 1. (It should be noted that the plural, "parents" has been used to simplify use. The singular "parent" should be substituted for single parent families.)

For agencies which have implemented family preservation programs, the safety determination worksheet can be used to identify which children are at risk of placement because of safety concerns.

Safety Responses

For children who have been identified as unsafe through the Safety Determination Worksheet, workers proceed through a decision tree model to consider the specific conditions which are jeopardizing the child's safety and which of the seven safety responses can be used to control the risk to the child. The model is constructed so that CPS staff must consider alternatives to out-of-home residence prior to placement of the child. If and when out-of-home placement is required, staff will have clearly documented the "reasonable efforts" which were made to prevent placement. The key safety response questions which lead workers to consider alternatives to placement are identified as Attachment 2.

Each of seven immediate safety responses match seven different categories of client conditions which are likely to jeopardize the safety of a child at risk of child maltreatment. These responses are designed to control the child's immediate safety as distinguished from change oriented treatment services which will be provided later on in the case process. The seven safety response worksheets are outlined as follows:

Medical/Mental Health Response Worksheet - analyzes for the presence of physical, mental health needs and substance abuse problems of individual family members which, if left unattended, would contribute to endangering the safety of the child.

In-Home Supervision Response Worksheet - analyzes for the presence of conditions which can be responded to by services/providers going in to the home to observe and supervise the parent, family, and child functioning to assure that acceptable functioning is being maintained.

Out-of-Home Supervision Response Worksheet - analyzes for conditions which suggest the need to arrange for the child to participate in activities or care outside the home as a means of providing relief to the parents or to observe and supervise parent, family, and child functioning to assure that acceptable functioning is being maintained. The need in the family as assessed is short term, temporary, daily/weekly, and non-residential in nature.

Social/Emotional Support Response Worksheet - analyzes conditions which suggest that parenting is questionable because of lack of parenting knowledge, social deprivation, and/or difficulty in generally managing life. Client conditions include social isolation, lack of knowledge, lack of awareness, poor perception, loneliness, and feelings of worthlessness. This response meets the needs of individuals who can benefit immediately from specific direction, learning, support, and/or being socially connected with others.

Crisis Resolution Response Worksheet -analyzes for a response which addresses a crisis within a family which has disorganized family functioning to the extent that it places a child in danger. This primarily includes traditional crisis intervention approaches directed at classically defined crisis.

Basic/Concrete Response Worksheet -analyzes for conditions which require responses to basic family needs such as housing, money, food, or home management.

Out-Of-Home Residence Response Worksheet - analyzes for the need to remove the child from the home and place the child in some form of out-of-home care setting or the need to place the members of the family in a shelter home situation, e.g., battered women's shelter.

An example of one Safety Response Worksheet is included as Attachment 3. It should be noted that a feature of the response worksheets is the ability to aggregate data on safety responses preferred for families but not available. If children are placed in out-of-home care because of the absence of another needed safety response, this information can be used to document the need for an expansion of specific services designed to prevent placement.

For agencies which have implemented family preservation programs, a further use of the Safety Response Worksheets is to focus the family preservation services on specific client conditions which are jeopardizing a child's safety.

PILOT TESTING

Use of the Safety Determination and Response Worksheets was formally evaluated through case application in Anne Arundel County, Maryland during a seven month period from April 1987 through October 1987. In addition, informal feedback was provided by CPS staff who also used the instrument in the states of Delaware, Pennsylvania, North Carolina, and South Carolina.

The findings presented in this report are based on a review of 76 child maltreatment cases which were assessed to be at risk of child maltreatment through use of the CARF initial assessment worksheet. Use of the Safety Determination Worksheet further identified that in 51% or 39 of the 76 cases (families), a child's safety was in jeopardy. It should be noted that this sample was over-represented with cases in which children were placed out of their homes so that the reviewers could read the case records of every child placed during this time period.

SELECTED FINDINGS

The following represent selected findings from the Anne Arundel County, Maryland Pilot Test:

1. During the pilot period, the rate of placement at CPS intake decreased from 21% during April-October 1986 to 15% during April-October 1987.

2. In 100% of the reviewed pilot cases in which a safety plan was developed and information was available (34 out of 76 cases), the safety plan developed by the agency was successful. (Success was defined by no new reports of maltreatment after the safety plan was put into place.)

3. In the reviewers' opinions, the safety worksheets were used appropriately 91% of the time.

4. For those cases for which it was necessary to develop a safety plan (39 cases), juvenile court was used 41% of the time. For the cases referred to court, the court supported the agency's safety plan 100% of the time.

5. Of the 22 children who were placed in out-of-home care, the reviewers assessed the decision to be appropriate 100% of the time (13 relative placements, 9 foster home placements.)

6. For the cases in which safety was a concern (39 cases), the following client conditions (safety influences) were most often present (conditions are ranked from most often to least often):

   - parents are out-of-control/violent;
   - non-maltreating parent or other cannot protect;
   - parents can not explain injury;
   - parents show no guilt or remorse;
   - parents request placement;
   - parents did not respond to previous intervention;
   - parents might flee;
   - child has exceptional needs which the parent can not meet;
   - life threatening living arrangements exist; and
   - parents whereabouts unknown.

7. For the cases in which risk of maltreatment was present but there was not an immediate concern for the child's safety, the following strengths were most frequently present (strengths are ranked from most often to least often):

   - parents possess sufficient impulse control;
   - parents accept responsibility for the situation;
   - parents have appropriate viewpoint/understanding of the child;
   - parents show concern/remorse;
   - family has a history of using help successfully; and
   - parents possess skills/knowledge of parenting.

8. For those children placed (22), the following safety responses were considered but not used because of the parents' refusal of services or a lack of availability of a service provider:

   - 86% In-Home Supervision;
   - 77% Social Emotional Support;
   - 59% Out-Of-Home Supervision;
   - 50% Crisis Counseling;
   - 45% Medical/Mental Health;
   - 41% Basic/Concrete; and
   - 18% Planned Treatment Services.

9. In 6 out of 22 placement cases in the sample, other safety responses were used in addition to, or following temporary use of out-of-home residence. For example, in one particular case, the worker chose to place the child temporarily until housing, day care, and a parent aide were arranged to ensure safety.

10. For those 39 cases for which the agency developed a safety plan, the following safety responses were used (note over sampling for placement cases):

    - 46% In-Home Supervision
    - 41% Social Emotional Support
    - 33% Temporary Relative Placement
    - 23% Temporary Non-Relative Placement
    - 23% Medical/Mental Health
    - 18% Planned Treatment
    - 15% Basic/Concrete
    - 10% Crisis Counseling

11. For those 39 cases for which the agency developed a safety plan, the following service providers were used:

    Service Providers (N=44)

    - 52% CPS caseworker
    - 30% Family Counselor (Intensive Family Service)
    - 27% Friend/Relative
    - 18% Mental Health Personnel
    - 14% Foster Family
    - 11% Group Care Givers
    - 07% Day Care Personnel
    - 07% Self Help Groups
    - 07% Family Shelter Personnel
    - 05% Babysitter
    - 05% Welfare Personnel
    - 05% Housing Authority
    - 05% Parent Aide
    - 02% Homemaker
    - 02% Volunteer
    - 02% Hospital Care Personnel
    - 02% Respite Care Personnel
    - 02% Residential Treatment Personnel

12. In 98% of the cases reviewed in which a safety plan was developed, the specific safety response appropriately matched with client conditions. Attachment 4 displays specific safety responses used for specific client conditions.

ATTACHMENT I

I. SAFETY DETERMINATION WORKSHEET

CASE NAME/NUMBER__________________ WORKER__________________ DATE__________

THE FOLLOWING ARE INDEPENDENT INDICATORS OF CHILD SAFETY. The existence of any one of the following 12 safety influences are indicators that the child may not be safe.

Check all influences and strengths that apply.

A. SAFETY INFLUENCES	FAMILY STRENGTHS
1.___NO ONE IN THE HOME WILL PERFORM PARENTAL DUTIES AND RESPONSIBILITIES.	1.___SOMEONE IN THE HOME WILL PERFORM PARENTAL DUTIES AND RESPONSIBILITIES.
2.___PARENTS CANNOT CONTROL BEHAVIOR AND/OR ARE VIOLENT.	2.___PARENTS CAN CONTROL BEHAVIOR AND/OR ARE NOT VIOLENT.
3.___PARENTS SHOW LITTLE OR NO AWARENESS OF AND DO NOT MEET CHILD'S BASIC CARE AND SURVIVAL NEEDS.	3.___PARENTS DO MEET CHILD'S BASIC CARE AND SURVIVAL NEEDS.
4.___CHILD IS PERCEIVED IN EXTREMELY NEGATIVE TERMS BY PARENTS.	4.___PARENTS VIEWPOINT OF CHILD IS APPROPRIATE.
5.___FAMILY DOES NOT HAVE RESOURCES TO MEET BASIC NEEDS.	5.___FAMILY HAS RESOURCES TO MEET BASIC NEEDS.
6.___ONE OR BOTH PARENTS FEARS THEY WILL MALTREAT CHILD AND/OR REQUEST PLACEMENT.	6.___BOTH PARENTS ARE MOTIVATED AND CAN STOP SHORT OF MALTREATMENT.
7.___PARENTS INTEND(ED) TO HURT CHILD AND DO NOT SHOW REMORSE.	7.___MALTREATING PARENTS DID NOT INTEND TO HURT CHILD AND SHOW REGRET/CONCERN/REMORSE.
8.___ONE OR BOTH PARENTS LACK KNOWLEDGE, SKILL, MOTIVATION IN PARENTING WHICH AFFECTS THE CHILD'S SAFETY.	8.___BOTH PARENTS POSSESS SKILL, KNOWLEDGE, MOTIVATION IN PARENTING SPECIFIC TO CHILD'S SAFETY NEEDS.
9.___THERE IS SOME INDICATION PARENTS WILL FLEE.	9.___FAMILY/HOME IS ESTABLISHED AND THERE IS NO INDICATION THAT THE PARENTS WILL FLEE.
10.___CHILD HAS EXCEPTIONAL NEEDS WHICH PARENS CANNOT/WILL NOT MEET.	10.___PARENT HAVE CAPACITY TO ADDRESS SPECIAL CHILD NEEDS AND WILL DO SO.
11.___LIFE THREATENING LIVING ARRANGEMENTS EXIST.	11.___ADEQUATE LIVING ARRANGEMENTS EXIST.
12.___PARENT WHEREABOUTS UNKNOWN.	12.___PARENT ARE ACCESSIBLE TO CPS.

RECORD THE NUMBER OF SAFETY INFLUENCES #1-12 IDENTIFIED IN SECTION A_____.

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SAFETY DETERMINATION WORKSHEET - PAGE 2

THE FOLLOWING, WHEN PRESENT IN COMBINATION, ARE INDICATORS OF CHILD SAFETY. The existence of two or more of the following safety influences are indicators that the child may not be safe. Check all influences and strengths that apply.

B. SAFETY INFLUENCES	FAMILY STRENGTHS
13.__CHILD SHOWS EFFECTS OF MALTREATMENT, SUCH AS SERIOUS PHYSICAL OR EMOTIONAL SYMPTOMS AND LACK OF BEHAVIORAL CONTROL.	13.__CHILD DOES NOT SHOW SERIOUS EFFECTS OF MALTREATMENT.
14.__NON MALTREATING PARENT OR OTHERS RESIDING IN THE HOME CANNOT/WILL NOT PROTECT CHILD.	14.__NON MALTREATING PARENT OR OTHERS RESIDING IN THE HOME CAN/WILL PROTECT THE CHILD.
15.__ONE OR BOTH PARENTS ARE NOT COOPERATIVE.	15.__BOTH PARENTS ARE COOPERATIVE.
16.__PARENTS CANNOT/DO NOT EXPLAIN INJURIES AND/OR CONDITIONS.	16.__PARENT ARE ABLE TO APPROPRIATELY EXPLAIN INJURIES AND/OR CONDITIONS.
17.__CHILD IS FEARFUL OF HOME SITUATION.	17.__CHILD NOT FEARFUL OF HOME SITUATION AND LACK OF FEAR SEEMS APPROPRIATE.
18.__CHILD IS SEEN BY THE PARENTS AS RESPONSIBLE FOR THE PARENTS PROBLEMS.	18.__PARENTS ACCEPT RESPONSIBILITY FOR PROBLEMS AND ACT ACCORDINGLY.
19.__MALTREATING PARENT EXHIBIT NO REMORSE OR GUILT.	19.__MALTREATING PARENT SHOW REMORSE/CONCERN.
20.__PARENTS HAVE FAILED TO BENEFIT FROM PREVIOUS PROFESSIONAL HELP.	20.__FAMILY HAS A HISTORY OF USING PROFESSIONAL HELP SUCCESSFULLY.
21.__CHILD IS 0-6 YEARS OLD AND/OR CANNOT PROTECT SELF.	21.__CHILD IS 7-18 YEARS OLD AND CAN PROTECT SELF.

RECORD THE NUMBER OF SAFETY INFLUENCES #13-21 IDENTIFIED IN SECTION B________.

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ATTACHMENT II

II. SAFETY RESPONSE QUESTIONS

CASE NAME/NUMBER ____________ WORKER ____________ DATE ____________

Answer questions A-F, then complete all appropriate worksheets.

A. Do the child's/parents physical/emotional health conditions affect the safety of the child?

NO______ GO TO NEXT QUESTION	YES______ COMPLETE MEDICAL/MENTAL HEALTH RESPONSE

B. Does occasional stress, stimulation, or interruption to an otherwise stable home create a parent reaction which influences child safety?

NO______ GO TO NEXT QUESTION	YES______ COMPLETE IN HOME SUPERVISION RESPONSE

C. Are the actual child care responsibilities or the parents perception of their child care responsibilities affecting the safety of the child?

NO______ GO TO NEXT QUESTION	YES______ COMPLETE OUT-OF-HOME SUPERVISION RESPONSE

D. Is the safety of the child affected by the parents lack of minimal social supports/basic emotional needs/basic parenting skills?

NO______ GO TO NEXT QUESTION	YES______ COMPLETE SOCIAL/EMOTIONAL SUPPORT RESPONSE

E. Is the family experiencing a current personal circumstance (crisis) which emotionally immobilizes and/or disorganizes them and therefore affects the safety of the child?

NO______ GO TO NEXT QUESTION	YES______ COMPLETE CRISIS RESOLUTION RESPONSE

F. Does the family's lack of basic needs affect the safety of the child?

NO______ GO TO NEXT QUESTION	YES______ COMPLETE BASIC/CONCRETE RESPONSE

STOP!!! PROCEED NOW TO COMPLETE ALL APPROPRIATE RESPONSE WORKSHEETS (WORKSHEETS WHICH CORRESPOND TO QUESTIONS ANSWERED YES). UPON COMPLETION OF ALL APPROPRIATE WORKSHEETS, PROCEED TO QUESTION G BELOW AND COMPLETE AS INDICATED.

G. Can the child's safety be controlled with the child residing in their own home as reflected in the above responses and related worksheets?

NO______ COMPLETE OUT-OF-HOME RESIDENCE RESPONSE THEN PROCEED TO SECTION IV AND DOCUMENT SAFETY PLAN AS INSTRUCTED	YES______ GO TO SECTION IV AND DOCUMENT SAFETY PLAN AS INSTRUCTED

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ATTACHMENT III

D. SOCIAL/EMOTIONAL SUPPORT

CASE NAME/NUMBER________________ WORKER ____________________ DATE _________

IDENTIFY FAMILY/CLIENT CONDITIONS:

	A	B
1. Parents lack basic life skills.	YES___	NO___
2. Parents lack basic parenting skills.	YES___	NO___
3. Parents are socially isolated.	YES___	NO___
4. Parenting is impaired because of lack of support.	YES___	NO___
5. Parents have detrimental expectations for the child.	YES___	NO___

IF ALL B'S STOP

SELECT THE SERVICE(S) WHICH BEST MATCH EXISTING CONDITIONS:

	A	B
1. Basic Home Management/Life Skills	YES___	NO___
2. Basic Parenting Assistance	YES___	NO___
3. Social/Emotional Support	YES___	NO___
4. Other__________________________	YES___	NO___

LEVEL OF SERVICE RESPONSE REQUIRED:

DAILY_____ 3-4/WEEK______ 2/WEEK______ 1/WEEK______

EVALUATION:

	A	B
1. Parents are willing to allow provider contact at the level of service that is needed to contribute to controlling child safety.	YES___	NO___ STOP
2. Parents are open and able to respond to the intended purpose of the safety response, for example, social connection, basic parent skill development.	YES___	NO____ STOP

IDENTIFY PROVIDER:	PREFERRED	AVAILABLE Yes	AVAILABLE No	ACCESSIBLE Yes	ACCESSIBLE No	SELECTED
1. Homemaker	a	b	c	d	e	f
2. Caretaker	a	b	c	d	e	f
3. Parent Aide	a	b	c	d	e	f
4. Relative/friend	a	b	c	d	e	f
5. Volunteer	a	b	c	d	e	f
6. Self Help Group	a	b	c	d	e	f
7. CPS Caseworker	a	b	c	d	e	f
8. Home based services worker	a	b	c	d	e	f
9. Other______________	a	b	c	d	e	f

Provider are available at the level of service response required. YES____ NO____

CONCLUSION: ANALYSIS OF THIS SAFETY RESPONSE INDICATES THAT IT CAN BE USED TO HELP CONTROL CHILD SAFETY. YES____ NO____

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SAFETY RESPONSES USED BY DANGER LOADED ELEMENTS

ATTACHMENT IV

Danger Loaded Elements	Medical/ Mental Health	In-Home Supervision	Out-of-Home Supervision	Social Integr./ Emot. Support	Crisis Resolution	Basic Concrete	Out-Of-Home Residence (Family)	Out-Of-Home Residence (Non-family)	Planned Treatment	[illegible]
Child shows effects of maltreatment, such as lack of control, provocative, depressed, etc.	11%	23%	5%	20%	5%	8%	9%	9%	6%	3%
Parent/child is incapacitated.	11%	23%	5%	18%	6%	8%	14%	6%	4%	6%
Parent is out of control, violent or possesses little/no impulse control.	9%	23%	3%	18%	3%	3%	12%	9%	9%	3%
Non-maltreating parent or others cannot protect the child.	9%	19%	5%	21%	6%	7%	15%	9%	6%	4%
Parents are not cooperative.	14%	13%	3%	23%	6%	8%	17%	6%	3%	3%
Parents cannot/will not explain multiple injuries.	0	25%	0	13%	13%	0	50%	0	0	0
Child is fearful or requests placement.	11%	23%	3%	21%	4%	4%	18%	11%	4%	0
Parent shows little/no awareness of child's needs.	11%	18%	6%	20%	4%	9%	11%	11%	8%	3%
Child is seen as responsible for parent's problems.	11%	25%	7%	21%	0	4%	7%	14%	3%	4%
Child is perceived as "bad" by parent.	11%	19%	7%	19%	4%	4%	11%	15%	7%	4%
Parents demonstrate a lack of coping.	10%	18%	6%	16%	6%	8%	13%	9%	8%	4%
Parents exhibit no guilt/remorse.	17%	15%	0	18%	3%	12%	21%	9%	3%	6%
Family experiences chronic stresses.	7%	16%	5%	16%	7%	11%	14%	11%	7%	7%
Family is without basic needs.	0	0	7%	13%	13%	20%	27%	20%	0	0
Parents request placement.	9%	17%	4%	17%	9%	4%	13%	17%	9%	0
Family/parents are isolated.	9%	16%	5%	20%	5%	11%	14%	9%	5%	7%
Parents intended to maltreat.	11%	11%	0	22%	0	0	22%	22%	11%	0
Parents have not responded to previous intervention.	6%	15%	9%	19%	0	6%	23%	15%	6%	3%
Parents lack knowledge of parenting.	9%	19%	7%	18%	4%	9%	12%	11%	7%	5%
Parents might flee.	0	14%	0	14%	14%	7%	36%	7%	7%	0
Child is 0-6 years old.	12%	15%	6%	15%	6%	12%	24%	3%	3%	3%
Substance abuse is present.	14%	20%	4%	18%	4%	8%	16%	2%	6%	6%
Child has exceptional needs which parents cannot meet.	5%	20%	10%	15%	5%	10%	15%	10%	5%	5%
Life threatening living arrangements.	8%	17%	17%	25%	0	8%	17%	8%	0	0
Parents whereabouts unknown.	14%	14%	0	14%	14%	0	29%	14%	0	0

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May 4, 1988

Honorable Thomas J. Downey
Acting Chairman
Subcommittee on Public Assistance
and Unemployment Compensation
B-317 Rayburn HOB
Washington, DC 20515-6351

Dear Mr. Chairman:

Enclosed is a copy of a letter that I received from my constituents, Mr. and Mrs. Eugene Sdobnev, of Bainbridge, New York. Mr. and Mrs. Sdobnev have some important points to make pertaining to our country's foster care system.

Because your Subcommittee has legislative jurisdiction over this subject, I wanted you and the other members to have the benefit of their comments. I would appreciate if the Sdobnev's letter could be included as part of your records of the hearing scheduled for May 12, so that their remarks will be taken into consideration.

Thank you for your thoughtful consideration of this proposal.

With warmest regards,

Sincerely,

Sherry Boehlert

Sherwood Boehlert
Member of Congress

SB:th
Enclosure

MAY 2 1988
Office of Cong.
Boehlert

24 April, 1988

United States House of Representatives
Federal Office Building
10 Broad Street
Room 200
Utica, New York 13501

Attn.:Hon. Sherwood Boehlert

Dear Congressman Boehlert:

We are writing to You for help in getting our testimony heard, before the House Ways and Means Committee. we believe that we have some very important statements to make pertaining to our foster care system.
There are now hearings being held on foster care in general. The next scheduled hearing will be on April 28, 1988, and more will be held in the near future.

We are currently and have been foster parents for the State of New York, for approximately three years. We have seen and heard of much suffering. We feel that the victims are our children, and these children are our (everyone's) responsibility. First thesechildren are the victims of their natural parents, and then they become the victims of an inadequate system, which saddly lasts throughout their entire childhood.

The reason we have become so involved, is that we are experiencing this inadequate handling of children first hand.

We have, with us, a little girl four years old, and have had her for three of her four years. We have put back the pieces, physically and mentally, of a severely neglected infant (she had to be hospitalized in Westchester Valhalla Hospital to keep her from dying). She was diagnosed as a "Failure to thrive" baby--the mortality rate of these babies is devastating. We have spent the past three years trying to bring this child to a secure, happy, healthy state, and we have succeeded--she is a physically normal, healthy child. Mentally she would be normal except for, visiting that were made on a regular basis with her natural mother. Starting from her infancy she had very bad mental and, some times, physical "reactions" to visiting her natural mother. She would become withdrawn and sometimes actually physically ill after visits. This torture of the child went on because of the Family Court and State laws for most of the three years.

24 April, 1988

This is a very involved case and it is not possible to give every detail in one letter (I do have 3 year's worth of notes).

To get a bit more direct, we have worked closely with the Department of Social Services and they, as well as we, did not believe that this child should be retutned to her natural mother. The laws and the inadequacy of our system kept this case in limbo with very distructive visits taking place.

There were four other sibilings involved in this case: a girl, age 7; a boy, age 5; a girl, age 3; and a deceased infant, age 9 months. There were neglect petitions filed pertaining to these children as well as for the child in our care. After two years of "training" and "rehabilitation" for the natural mother--the Department of Social Services had to remove these children from the home because of neglect and sexual abuse. The infant boy was removed,at birth, right from the hospital and placed in foster care--untill Nov.'87. Then the Family Court Judge sent all the children, except our little girl, home to their natural mother. We believe that the reason our child was not sent home was because we engaged a private Attorney to represent us and the child.

Two months after the other children were returned, the natural mother killed the infant boy by repeatedly banging his head on a sink. He was barely nine months old.

The medical examener's report showed that the baby had a previous untreated broken wrist and another head injury that dated back to just after his return to his natural mother.

The mother has a long history of neglect (and her mother before her). She is a "slow" special Ed. student that dropped out of school at the age of 13 to work the streets by her mother's demand. She became a mother herself at age 14.

We could see her son's tragedy comming for a long time. That is why we were frightened for the child in our care, because we thought it would be her, if she was to be returned.We tried to warn everyone, but we got "swallowed" by the red tape of ourinadequate system.

This baby boy was a healthy, happy child--in a secure and loving home--he had never known the abuse and neglect untill our Court system sentenced him to death.

We can not allow his death to be in vain. It must help all his brothers and sisters to be free from abusive parents and an abusive system. We are in great need of change in the way we are trying to protect our children.

We, as concerned parents and citizens, are horrified at the [illegible] torture these children must endure and we can't help but worry about the stability of our Nation when these children become adults. What type of citizens will they be? There are some very specific areas of our system that are promoting disorientation and we have experienced a great variety of this.

For your information and verification, this case is from Orange County, New York. The murder of the infant took place on the 18th of January, 1988--this is a Newburgh and Goshen, New York based case (we moved up-state here in Chenango County after having this little girl in our care for one year. We brought her with us, with the promise of bi-weekly visits to Newburgh with her natural mother). We traveled 260 miles round trip for almost two years. At this time the natural mother has been indicted for 1st and 2nd degrees mansloughter by a grand jury. All visitation has been stopped. We will apply to free this child and adopt her. Our own attorney is helping to work on this.

We are working with the foster parents of the slain baby boy to have laws and procedures changed. We would appreciate it if You would assist us in any way that You can.

Thankyou for any consideration You may extend on our behalf.

Sincerely,

Eugene and Ellen Sdobnev

PS
We have been in contact with Mr. Alan Jensen, Ways and Means Committee B-317 Rayburn House Office Building, Washington, D.C. 20515

Our address is:

MR. & MRS. Eugene Sdobnev
RD 2, Box 62
Bainbridge, New York 13733

Telephone: (607) 967-7142

cc: Mr. A. Jensen

boysville of michigan
INCORPORATED

COMMUNITY RESOURCES OFFICES
17117 W. 9 Mile Road
Suite 445
Southfield, Michigan 48075
(313) 569-6630

Administrative Offices
Clinton, Michigan

Community Resources Offices
Lansing, Michigan
Southfield, Michigan

Andre House
Detroit, Michigan

Boysville Campus
Clinton, Michigan

Cabrini Center
Redford, Michigan

[illegible] House
Frankenmuth, Michigan

Howard House
Saginaw, Michigan

[illegible] House
Alpena, Michigan

King House
Mt. Clemens, Michigan

Moreau Center
Monroe, Michigan

St. Anthony Villa
Toledo, Ohio

St. Cecilia House
Detroit, Michigan

St. Thomas Center
Detroit, Michigan

St. Vincent Home
Saginaw, Michigan

Xavier Center
Ecorse, Michigan

April 26, 1988

Mr. Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Leonard:

Enclosed please find six copies of a written statement by Boysville of Michigan, a provider of residential foster care and home-based services to over 600 Michigan families.

We submit this testimony for consideration by the Sub Committee on Public Assistance and Unemployment Compensation, which recently held hearings.

We chose to address the issue of "The Future of Child Welfare Services.

We are trying to emphasize as strongly as possible that the Federal government must be a major supporter, stimulator and advocate if child welfare is to have a future.

Sincerely yours,

Edward J. Overstreet

Edward J. Overstreet
Associate Director

/jba

enclosure

The Future of Child Welfare Services

I cannot address the major child welfare challenges and special problems of the next decade without describing the state of today's children relative to the predictions of a decade ago.

In retrospect, 1980 began an era of complacency towards American youth and families. Consistent with the policy of deregulation and privatization, federal and state budgets de-prioritized family enhancement projects while Congress continued to debate the concept of "family". In effect, policy makers of 1980 predicted that all Americans would and could assume greater responsibility for the welfare of their families as the government assumed less. The deteriorated economic, educational, moral and physical state of today's youth testifies to the error of that assumption.

While the poverty rate for all American adults has declined over the last decade, the poverty rate for children under the age of eighteen has risen 40 percent. In 1988, a greater number of American children are functionally illiterate, are high school drop-outs; are more seriously delinquent; are single parents; are homeless; are victims of abuse and neglect; are unemployed and unemployable; are dying prematurely from poor health care, suicide and violence.

Despite the alarming statistics related to American youth, there remains an obvious absence of government leadership in child welfare reform. Specifically:

- this past decade was the first decade in which the White House Conference on Children did not meet since it was established by Theodore Roosevelt in 1909.
- HDS's Department of Children Youth and Families has been ineffectual in reducing the bureaucracy and fragmentation of child welfare service delivery systems, and has demonstrated an inability to provide technical assistance to local human service offices.
- The passage of new and effective children and family welfare policy has met with continued congressional resistence while current programs continue to be threatened with budget cuts.

Attempts have been initiated during the past decade to address the deteriorating state of American children and families. The Family Welfare Reform Act and the Family Security Act are attempts to overhaul the nation's welfare system through such programs as day care, education and work provisions . Claude Pepper's Young Americans Act is also an attempt to reverse the nation's complacent position on children's issues. The bill acknowledges that while "the family is the primary caregiver...it is the joint and several duty and responsibility of the Federal Government and of the States and their political subdivisions to assist our children and youth..."

None of the aforementioned bills have received Congressional consensus to date.

In summary, until the federal and state governments assume a more responsible leadership role in formulating political and economic recourse to the threatened state of our children and families, I can predict that preservation of the status quo, as undesireable as it may be, will be the greatest challenge of our next decade.

A CRITIQUE OF FIVE REPORTS ON CALIFORNIA'S SERVICES

FOR

ABUSED AND NEGLECTED CHILDREN ---

A CASE FOR FALSE POSITIVES AND FALSE NEGATIVES

PREFACE

This paper critiques five reports to the California Legislature evaluating California's services for abused and neglected children. It points our serious problems inherent in the evaluations that need immediate attention if the intent of PL 96-272 is to be carried out. These problems deal with the following aspects:

- Lack of mandated documentation of reasonable efforts being made prior to the removal of a child from his/her home.
- Social Worker contacts with child and with parent.
- Lack of parent signature or documentation explaining the lack of parent signature.
- Complete absence of data on false positives and false negatives regarding diagnosis of neglect and abuse.
- Lack of adequate education and training programs for CWS workers.

The paper points out that in dealing with these problems, important knowledge, particularly that of false positives and false negatives will be gained that will help Child Welfare Services (CWS) workers learn how to avoid errors and thereby improve their services to children. This information will also be useful in better defining concepts such as neglect, abuse, and reasonable efforts. In addition to critiquing the existing reports, this paper makes recommendations to study critical areas of the child welfare delivery system that were omitted from the five reviewed reports.

Marilyn Case Campbell, Ph.D.

Shoneen S. Gervich, B.S.

A Report Submitted to the U.S. House of Representatives
Select Committee on Children, Youth, and Families

June 1988

INTRODUCTION

Pursuant to statutory mandate of Welfare and Institutions Code (W&IC) Section 16512 annual reports are submitted to the California Legislature by the Department of Social Services (DSS) to report on the operation and progress of the Child Welfare Services Program. The purpose of these reports are to represent progress in implementing the mandates of Senate Bill 14 of 1982 which provided for the implementation of four new Child Welfare Services programs. These programs were a direct consequence of the passage of federal law PL 96-272. The four programs and the two general categories into which they fall are:

Preplacement Preventive Services

1. Emergency Response (ER)
2. Family Maintenance (FM)

Placement Programs

3. Family Reunification (FR)
4. Permanent Placement (PP)

Implementation of these programs included training on statutory and regulatory requirements, and on-site technical assistance. In addition, the Department of Social Services (DSS), the Judicial Council of California, and county representatives developed training materials for Juvenile Court judges.

In presenting the results of field case reviews in their report, the Department of Social Services stated that it was, ". . .responsible for ensuring the intention of the law has been carried out. . ." It is this intent of the law that must be kept in mind when reviewing evaluation reports so as to determine their validity for providing future guidance for modifying, implementing, and funding children's services.

The purpose of this critique is to highlight salient points and to point out serious problems inherent in the evaluations carried out to date by the California Department of Social Services. The boldfaced statements throughout the document are problem areas which need to be addressed. These areas deal with the limitations of the utility of the knowledge gained from the reports as they are lacking in information directly related to the intent of PL 96-272. **The most important question to be asked is, "Are the intended children being served in the intended way?" Unfortunately, none of the existing reports adequately address this fundamental question.**

The "intended children" demands clear definition of abuse and neglect, a concept which is not addressed anywhere in existing manuals or law, and is fraught with child raising controversy and cultural diversity. The "intended way" portion of this most basic question deals with concepts such as reasonable efforts, proper placement, and reunification of families. There appears to be a wide margin for interpretation of these concepts. **Nonetheless, some definitions must be considered when developing an assessment plan so that the proper variables are measured.** Pertinent information must be gathered in order to obtain a complete picture on all children who enter the system, and where they go within the system, how they exit, and what happens to their families.

The state evaluations conducted to date are involved primarily with paperwork placed in a file and with head counts and dollar counts. All serve a purpose but they do not go far enough so as to give a complete picture of the process by which children's services are delivered. However, they do consistently point out a serious need for proper definitions, relevant training, and procedures for accountability so as to ensure that the rights of children and those of their families are preserved.

The reports cited in their critique include the Child Welfare Services Reports from the Family and Children Services Branch, Adults and Family Services Division, Department of Social Services, January 1985, January 1987, and October 1987: *Preplacement Preventive Services, Emergency Response and Family Maintenance Programs, Survey of Selected Characteristics for Cases Closed During April 1985*, by the Department of Social Services Data Processing and Statistical Services Bureau released April 1986; and *The Children's Services Delivery System in California, Preliminary Report - Phase I*, a report of the Commission on California State Government Organization and Economy. The findings of these reports will be reviewed in chronological order starting with the January 1985 report from the Department of Social Services. All tables have been taken from the original reports and bear their original numbers and titles.

CHILD WELFARE SERVICES REPORT
JANUARY 1985

This report to the legislature was based on two statewide programs' compliance field reviews, one of which focused on 1600 child welfare cases in the Family Reunification and Permanent Placement Programs (Phase I - conducted in 1983) and the other focused on 2400 cases of the Emergency Response and Family Maintenance Programs (Phase II - conducted in 1984) and included samples of Reunification and Permanent Placement cases. The latter cases were used to evaluate items which had low compliance rates in the first part of the study (Phase I).

The data for each county consisted of the percent of cases showing compliance with items dealing with timely and documented assessments, reassessments, services plans, planned actions for parents and for social workers, parent signatures, or documentation concerning the lack of parent signatures, social workers' visits, and court orders or placement agreements. The items with the lowest statewide average compliance ratings have been selected for discussion here and are presented in Table 1.

SOCIAL WORKER CONTACT AND PARENT SIGNATURE

Items dealing with social worker visits appear most frequently across programs as a problem-area where consistent failure in maintaining legally required standards of contact with clients occurred. The report states that, ". . .counties have stated that the poor ratings were largely due to social workers' failure to adequately document in the case file that visits were made." (Report, p. 18) The report gives no independent validation of the counties' interpretation of their own documented failures, although one could surmise from the high case load that most county workers carry, that contact is so time-consuming that it is frequently omitted on this basis alone. **The reasons for low social worker contact do need to be independently verified.**

Furthermore, the report does not deal with the items pertaining to parent signatures (32% noncompliant for Family Reunification, 37% noncompliant for Family Maintenance, and 70% noncompliant for documentation when there is a lack of parent signature for Family Maintenance), nor with noncompliance with mandated social worker and foster parent contact (55% noncompliant for Permanent Placement). In these important areas concerning contact with the social worker, approximately 30 to 70 percent of the cases sampled revealed that the majority of the county welfare departments were not in compliance with the law. However, the report still concludes, with the exception of the social worker visits, that the majority of the county welfare departments were in, "substantial compliance with the regulations. . ." (Report, p. 18).

With regards to parent signatures, knowledge as to why either signature is missing is necessary to understand the level of

Table 1

Items with Lowest Statewide Average Compliance Ratings
by Program

Program	Item	Phase I %	Phase II %
		Compliant	
Family Reunification	Plan signed by parent	68	
	Monthly social worker visits with child	48	46
	Monthly social worker visits with parent	50	47
	Social worker facilitated visits between parent and child	48	45
Permanent Placement	Monthly social worker visits with child	56	51
	Contact with foster parents	45	42
Emergency Response	Service plan completed in 10 days		63
	Service plan signed by supervisor		69
	Weekly visits: SW/child first 21 days		67
	Biweekly visits: SW/child +22 days		37
Family Maintenance	Initial service plan signed by supervisor		67
	Service plan signed by parent		63
	Documentation if service plan not signed by parent		30
	Biweekly visit: SW/parent first 90 days		44
	Biweekly visit: SW/child first 90 days		38
	Monthly visits: SW/child after 90 days		45
	Monthly visits: SW/parent after 90 days		52

Source: Child Welfare Services Report, January 1985

cooperation that exists between the programs and the parents. This lack of signature may be representing those parents who disagree with the diagnosis that their child is abused or neglected. In other words, these cases could represent false charges that social workers believe to be founded, cases of reluctant parents, or cases where the parent was unable to be contacted, or no attempt to contact was made. In view of the low rates of compliance for social worker visits, the latter is quite possible. A look at the joint classification of parent signatures and social worker visits would address some of these concerns.

Another major concern involving parent signatures is whether or not two signatures were obtained, or only one. In some cases there is, in essence, only one parent available, however this may not true in all cases. If a father is charged with abuse, and he denies the allegation, but the mother signs the service plan, and the father refuses, his refusal may not in any way be accounted for in this report. This problem may be compounded in families where the parents were never married, or currently separated or divorced. False charges may frequently arise out of an embittered custody dispute, and is becoming an increasingly used tactic to influence legal custody arrangements. There needs to be documentation of both parent signatures, and clear explanations when either signature is absent.

PREPLACEMENT PREVENTIVE SERVICES CHARACTERISTICS SURVEY
APRIL 1986

At this time, the Department of Social Services Data Processing and Statistical Services Bureau issued a report on the *Preplacement Preventive Services Characteristics Survey* that they had conducted of cases closed during April 1985. Preplacement Preventive Services consists of two programs - the Emergency Response Program (provides initial services, crisis intervention, emergency shelter care, etc.) and the Family Maintenance Program (keeps child in family). The report states that closed cases were surveyed so as, ". . .to establish a data base that would encompass the entire period of time that the case was active." (Report, p. 1) The survey focused on the following:

1) The reason that the case was opened (type of abuse and location)
2) The type of services provided (counseling, crisis intervention, and to whom provided)
3.) Family stress factors (health problems, economic problems, interaction problems)
4.) Characteristics of child and of perpetrator (age, ethnicity, disability, number of persons in home, etc.).

Each program is reviewed separately below.

EMERGENCY RESPONSE PROGRAM

NO NEGLECT/ABUSE FOUND DATA PRESENTATION

The tabled information appearing in this report was based on 24,070 children who were reported to the Emergency Response (ER) program as being abused or neglected. Table 29 of this report shows that 57.7% of these children (13,881) were listed as *no neglect/abuse found.* However, Table 40 of this report shows 75.2% (18,110) of the 24,070 children as needing *no further action.* The remaining 24.8% (5,960) are shown as being transferred to other programs or as remaining as open cases.

Looking at the two tables, it is apparent that the number of *closed, no further action needed* cases include the 13,881 cases listed in Table 29 as *no neglect/abuse found.* This implies that after the Emergency Response workers

PREPLACEMENT PREVENTIVE SERVICES CHARACTERISTICS SURVEY

EMERGENCY RESPONSE

TABLE 29

TYPE OF NEGLECT/ABUSE FOUND BY WORKER

APRIL 1985

NEGLECT/ABUSE FOUND	CHILDREN		
	NUMBER	PERCENT	
TOTAL	24,070	100.0	
NO NEGLECT/ABUSE FOUND	13,881	57.7	
NEGLECT/ABUSE FOUND	10,189 A/	42.3	100.0 A/
SEXUAL ABUSE	2,192		21.5
PHYSICAL ABUSE	2,961		29.1
SEVERE NEGLECT	769		7.5
GENERAL NEGLECT	3,230		31.7
EMOTIONAL ABUSE	1,154		11.3
EXPLOITATION	115		1.1
CARETAKER ABSENCE OR INCAPACITY	1,999		19.6

A/ BECAUSE A CASE MAY HAVE MORE THAN ONE RESPONSE, NUMBERS AND PERCENTAGES MAY NOT ADD UP TO TOTAL.

PREPLACEMENT PREVENTIVE SERVICES CHARACTERISTICS SURVEY

EMERGENCY RESPONSE

TABLE 40

REASON FOR EMERGENCY RESPONSE TERMINATION

APRIL 1985

TERMINATION	CHILDREN	
	NUMBER	PERCENT
TOTAL	24,070	100.0
CLOSED, NO FURTHER ACTION NEEDED	18,110	75.2
TRANSFERRED TO FAMILY MAINTENANCE	3,384	14.1
TRANSFERRED TO FAMILY REUNIFICATION	1,423	5.9
TRANSFERRED TO PERMANENT PLACEMENT	77	0.3
TRANS. TO OTHER COUNTY/NON-CWD AGEN.	615	2.6
CWS OPEN SERVICE CASE	461	1.9

dispensed with 13,881 cases, they then found another 5,960 cases, or 16.5% of the original number, that could be closed. Seemingly these figures imply that only approximately 25% of all neglect/abuse cases required intervention, or at least, lengthy intervention. It further implies that PL 96-272 is being carried out as intended because approximately 75% of all children were not taken from their home, or at least, not for very long. It appears that, in the main, children were left with their families. This assumption is, however, misleading.

QUESTIONS STILL UNANSWERED

There are serious flaws in this incomplete representation of how these *no neglect/abuse found* cases were handled. **The report does not show how many children were taken from their home during the investigative phase, and for how long.** The practice of removing children prior to an investigation, except in a very extreme example, in and of itself, is in violation of reasonable efforts to prevent placement, as mandated by PL 96-272. Children should not be removed until after an investigation proves there is no safe way to keep the child in the home. A child's sudden separation from their family, even for a brief period, especially under highly-charged emotional conditions, is very traumatic for both children and their families. To a child being taken from school with absolutely no advance warning, and into the home of strangers, with no contact between parent and child, is a traumatic situation, akin to a kidnap. Table 20 states that the average stay in foster care was 2 weeks, but this data does not state how many of those 2,922 children placed into shelter care had cases where *No Neglect/Abuse Found* was the final determination. The report does not address this practice which is essential for monitoring for compliance with PL 96-272. Workers need to be trained to determine when intervention is truly needed, as unneeded intervention is extremely harmful.

It is conceivable that some of the additional children in the 16.5% category, *closed/no further action needed,* could have been removed from their family for a lengthy period of time, while the parents faced legal action, such as termination of their parental rights. On the basis of a judicial determination, the original allegation of abuse or neglect could have been found to be false, and the case closed, with no further action needed, and the children returned. **The report needs to examine the time periods that it took to determine *no further action needed*** . If children were unnecessarily removed, it would add to the already substantial noncompliance with PL 96-272. **In the current report, these unnecessary Emergency Response removals, prior and during an investigation, are not documented. However, the intent of both PL 96-272 and SB 14 is to stop these types of unnecessary removals, yet the reports do not address this problem in any manner.**

SERVICES RENDERED

The type of support services offered to children in the Preplacement Programs (ER & FM) are detailed in Table 18. This table shows 5.1% of the children received no services, but that 2,922 (12.14% of the original 24,070 children) were placed in emergency shelter care. The remaining 82.76% received some type of service. These figures imply that almost all of those children who were classified as *no neglect/abuse found* did received some type of service as specified in Table 18. However, it cannot be determined from the information at hand which services they received. It is likely that some children received unnecessary shelter care as a 'service.' However, it can be logically inferred that initial intake is most likely to be received service as 21,109 children, or 87.7% of the the total number of children, went through this process. It still remains unclear as to what happens to the parents and children who are contacted by the Emergency Response Workers. For instance, how long does it take to decide if a charge is unfounded? How are children terminated from shelter care? **What percent of children in shelter care are later categorized as *no neglect/abuse found* ?**

PREPLACEMENT PREVENTIVE SERVICES CHARACTERISTICS SURVEY

TABLE 18

TYPE OF SUPPORT SERVICES PROVIDED TO CHILD OR OTHERS ON BEHALF OF CHILD

APRIL 1985

SERVICES	TOTAL SERVICE CHILDREN			TYPE OF CASE					
				EMERGENCY RESPONSE			FAMILY MAINTENANCE		
	NUMBER	PERCENT		NUMBER	PERCENT		NUMBER	PERCENT	
TOTAL	29,578	100.0		24,070	100.0		5,508	100.0	
NO SERVICES RECEIVED	1,374	4.6		1,230	5.1		143	2.6	
SERVICES RECEIVED	28,204 A/	95.4	100.0 A/	22,840 A/	94.9	100.0 A/	5,365 A/	97.4	100.0 A/
COUNSELING	22,249		78.9	17,495		76.6	4,754		88.6
TEMPORARY IN-HOME CARETAKER	412		1.5	269		1.2	143		2.7
TEACHING/DEMONSTRATING HOMEMAKING	450		1.6	231		1.0	220		4.1
EMERGENCY SHELTER CARE	3,352		11.9	2,922		12.8	430		8.0
CRISIS INTERVENTION	17,647		62.6	14,611		64.0	3,036		56.6
INITIAL INTAKE	24,288		86.1	21,109		92.4	3,179		59.3
TRANSPORTATION	3,013		10.7	2,230		9.8	783		14.6
PARENTING TRAINING	4,237		15.0	2,576		11.3	1,661		31.0
OUT-OF-HOME RESPITE CARE	325		1.2	115		0.5	210		3.9
OTHER	2,054		7.3	1,615		7.1	439		8.2

A/ BECAUSE A CASE MAY HAVE MORE THAN ONE RESPONSE, NUMBERS AND PERCENTAGES MAY NOT ADD UP TO TOTAL

This knowledge is essential for preventing families and children from being traumatized.

FACE-TO-FACE CONTACT WITH SOCIAL WORKER

With regards to *face-to-face contact* between child and service providers in the Preplacement Program (ER & FM), 12.8% (3,076) of the children had no face-to-face contact with workers; 52.4% (12,612) had only one contact, and the remaining 34.8% had two or more contacts. (See Table 37). *Face-to-face* contact did not occur for 22.2% of the cases; 48.6% (11,689 of the original 24,070) had one contact; and the remaining 29.2% had 2 or more contacts. It cannot be determined if there ever was a case in which no contact was made with either the child or the parent. The reasonable assumption is that at least one principal--either parent or child-- was interviewed by an Emergency Response worker in each of the 24,070 cases.

No data is presented that deal wi'h the number of face-to-face contacts associated with cases labeled as *no neglect/abuse found, closed/no further action needed,* or *neglect/abuse found.* This information is necessary for determining the relationship between the number of face-to-face contacts and the disposition of cases. There may exist a relationship between how well a caseworker understands the situation, and a likely finding of either *no neglect/abuse* or an opposite finding. **Also lacking in this report is the number of cases closed or deemed unfounded in which neglect/abuse is later verified - i.e. FALSE NEGATIVES. In the same vein, no information has been given regarding the number of cases in which charges of neglect/abuse originally deemed founded are later proven to be unfounded, or unsubstantiated - i.e. FALSE POSITIVES.**

FAMILY MAINTENANCE PROGRAM

A total of 5,508 cases were served in the Family Maintenance Program (FM). This program received 98.3% of its cases from either the Emergency Response (90.6%), Family Reunification (7.3%), or Permanent Placement (.3%) programs. (See Table 42)

In this program, face-to-face contacts between service providers and children, and between service providers and parents are fairly evenly distributed across the categories. However, 8.1% of the children had no face-to-face contact with the worker (Table 43), and 9.5% of the parents had no face-to-face contact with the worker (Table 44). There is no data on whether there was ever a case in which no contact was had with either parent or child. **Data should be tracked by family, not separately by child and parent. The family should be the unit of measure, as intended by PL 96-272.** To validly interpret this data, it is necessary to know the length of time that the family has been in this program. In this report, the time spent in the program was presented separately: no cross-classification data was used. Lack of such data makes it extremely difficult to assess what happens to families in this program.

PREPLACEMENT PREVENTIVE SERVICES CHARACTERISTICS SURVEY

EMERGENCY RESPONSE

TABLE 37

TOTAL NUMBER OF FACE-TO-FACE CONTACTS BETWEEN CHILD AND SERVICE PROVIDER(S) WHILE RECEIVING EMERGENCY RESPONSE SERVICES

APRIL 1985

FACE-TO-FACE CONTACTS	CHILDREN		
	NUMBER	PERCENT	
TOTAL	24,070	100.0	
NO FACE-TO-FACE CONTACT WITH CHILD	3,076	12.8	
FACE-TO-FACE CONTACT WITH CHILD	20,994	87.2	100.0
ONE CONTACT	12,612		60.1
TWO CONTACTS	5,075		24.2
THREE CONTACTS	1,461		7.0
FOUR OR MORE CONTACTS	1,846		8.8
NUMBER OF CONTACTS UNKNOWN	0		0.0
AVERAGE NUMBER OF CONTACTS	1.8		

PREPLACEMENT PREVENTIVE SERVICES CHARACTERISTICS SURVEY

EMERGENCY RESPONSE

TABLE 38

TOTAL NUMBER OF FACE-TO-FACE CONTACTS BETWEEN PARENT(S) AND SERVICE PROVIDER(S) WHILE RECEIVING EMERGENCY RESPONSE SERVICES

APRIL 1985

FACE-TO-FACE CONTACTS	CHILDREN		
	NUMBER	PERCENT	
TOTAL	24,070	100.0	
NO FACE-TO-FACE CONTACT WITH PARENT	5,345	22.2	
FACE-TO-FACE CONTACT WITH PARENT	18,725	77.8	100.0
ONE CONTACT	11,689		62.4
TWO CONTACTS	3,960		21.1
THREE CONTACTS	1,346		7.2
FOUR OR MORE CONTACTS	1,730		9.2
NUMBER OF CONTACTS UNKNOWN	0		0.0
AVERAGE NUMBER OF CONTACTS	1.9		

PREPLACEMENT PREVENTIVE SERVICES CHARACTERISTICS SURVEY

FAMILY MAINTENANCE

TABLE 42

SOURCE OF FAMILY MAINTENANCE CASE

APRIL 1985

SOURCE	CHILDREN	
	NUMBER	PERCENT
TOTAL	5,508	100.0
EMERGENCY RESPONSE-VOLUNTARY	4,067	73.8
EMERGENCY RESPONSE-COURT ORDERED	926	16.8
FAMILY REUNIFICATION	401	7.3
PERMANENT PLACEMENT	19	0.3
OTHER COUNTIES OR NON-CWD AGENCIES	95	1.7

PREPLACEMENT PREVENTIVE SERVICES CHARACTERISTICS SURVEY

FAMILY MAINTENANCE

TABLE 43

TOTAL NUMBER OF FACE-TO-FACE CONTACTS BETWEEN CHILD AND SERVICE PROVIDER(S) WHILE RECEIVING FAMILY MAINTENANCE SERVICES

APRIL 1985

FACE-TO-FACE CONTACTS	CHILDREN		
	NUMBER	PERCENT	
TOTAL	5,508	100.0	
NO FACE-TO-FACE CONTACT WITH CHILD	449	8.1	
FACE-TO-FACE CONTACT WITH CHILD	5,059	91.9	100.0
ONE CONTACT	840		16.6
TWO CONTACTS	983		19.4
THREE CONTACTS	773		15.3
FOUR - SIX CONTACTS	1,060		20.9
SEVEN - NINE CONTACTS	592		11.7
TEN OR MORE CONTACTS	783		15.5
NUMBER OF CONTACTS UNKNOWN	29		0.6
AVERAGE NUMBER OF CONTACTS	5.5		

CHILD WELFARE SERVICES REPORT
JANUARY 1987

The *Child Welfare Services Report* is the mandated annual report to the legislature prepared by the Family and Children's Services Branch, Adult and Family Services Division, Department of Social Services. It is based on data collected during the calendar years 1984 and 1985 by the Statistical Services Bureau and was designed to compare the 1985 survey of demographic characteristics of parents and children with those of the 1981 survey at which time the programs were organized differently under Child Protective Services.

EMERGENCY RESPONSE AND FAMILY MAINTENANCE PROGRAMS

REMAINING IN THE HOME AND PARENT COOPERATION

The report states, ". . .of those referrals which resulted in open CWS cases that required services beyond the ER program a significant proportion, 79.25 percent in 1984 and 79.5% in 1985, became FM cases where the child remained in the home." (Report, p. 10) This is a misleading statement because some of these children may have already been placed for a time in emergency shelter care and have therefore not remained in the home but rather have been returned to the home. Table 1 contains the disposition for Emergency Response cases for both years.

For both years, more than half of the Family Maintenance cases were voluntary ones. The report states, "This may mean that more families are responding favorable to the offer of voluntary services." (p.10) It also may mean that accused parents do not want the disgrace or cost that a court hearing entails, or that they will do anything to keep from losing their children. When one parent is charged with abuse, the parent may "voluntarily" leave the home, despite their contention that they are innocent, in order to avoid the children entering an emergency shelter. Although this is less traumatic than becoming a foster child, the absence and sudden non-contact between parent and child, is still traumatic. **Thus many cases termed voluntary may be 'coercive,' and therefore it needs to be determined under what conditions parent cooperation was elicited.**

THE CHANGING DATA BASE

It is also important to be aware of how estimates can vary. In this report the percent of cases listed as *investigated and closed/ no further action needed* is given as 63.4% for 1984 and 67.5% for 1985. Table 40 of the April 1986 report listed the 1985 estimate as 75.2%. The reason for the discrepancy is the use of different data bases. The 1986 report was based on cases closed during April 1985, while the 1987 report is based on data for the calendar year 1985. This raises a very important question as to what should be considered a reasonable source for a data base. The month of April overestimates in this case - but will it always? **Are there months that will consistently over or underestimate? These are methodological considerations which need to be dealt with by the statistical division.** They also need to be stated clearly so that the reader may be cautious in making conclusions regarding comparisons.

FAMILY REUNIFICATION AND PERMANENT PLACEMENT PROGRAMS

The Family Reunification Program provides for temporary foster care for the safety of the child while working to resolve the problems that led to

TABLE 1

PREPLACEMENT PREVENTIVE SERVICES
EMERGENCY RESPONSE PROGRAM

TYPES OF DISPOSITIONS
CALENDAR YEARS 1984 AND 1985

ANNUAL NUMBER OF CHILDREN

REFERRALS AND CASE DISPOSITIONS FOR EMERGENCY RESPONSE CHILDREN	1984		1985		DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES C/
	NUMBER	PERCENT	NUMBER	PERCENT	
CHILDREN REFERRED FOR AN EMERGENCY RESPONSE	250,271		295,769		
Total Case Dispositions	238,094 A/	100.00	296,067 A/	100.00	
Transferred to Family Maintenance	64,951	27.0	67,212	22.7	- 4.3
Voluntary	55,987		55,589		
Court Ordered	8,964		11,623		
Transferred to Family Reunification	15,317	6.4	16,233	5.5	- .9
Transferred to Permanent Placement	1,692	1.0	841	.3	- .7
Investigated and Closed No Further Action Needed	150,018	63.4	199,832	67.5	4.1
Other	5,316 B/	2.2	11,949 B/	4.0	1.8

A/ Includes cases carried over from year to year.

B/ Represents cases transferred to other counties or non-CWD agencies or open CWS cases.

C/ Numbers in this column represent the difference between the proportion in calendar year 1984 service population and calendar year 1985 service population.

separation. In the event that the reunification cannot be achieved, the child is referred to the Permanent Placement Program whose duty it is to provide a permanent home environment.

REASONS FOR REMOVAL FROM HOME

The report cites neglect as the primary reason for removal of the child from the home. For the Reunification Program, neglect accounts for approximately 37% of the cases; for the Permanent Placement Program, it accounts for approximately 39% of all cases (see Table 8). The next most frequently cited reason is physical abuse for the Reunification Program and caretaker absence or incapacity for the Permanent Placement Program. The report further states that there is a trend for more children being placed in the Reunification Program than in the Permanent Placement Program, making family reunification the goal. However, recently the Tiffany Callo case in Santa Clara County has demonstrated that some children do go immediately into Permanent Placement, bypassing any attempts at reunification. Tiffany Callo's child was, and other children have been, removed at birth from physically disabled parents, against their will. The County places the children into the Permanent Placement program immediately, citing the parent's physical incapacity, but yet attempts no reunification services, such as a homemaker, that would allow the children to remain in their biological home.

Furthermore, the report does not provide information on the number of children in either program who may be there as the result of possible false charges (False Positives). These children may be kept from their parents until the parents cooperate with the system-- i.e. agree to service plans which makes no sense to them. Parents accused of abuse which leaves no physical evidence, such as emotional or sexual abuse, may not be considered candidates for reunification with their children. The allegations may be true, and the parents in denial state, or the allegations might be false, and the parents are telling the truth. Distinguishing between the two requires great skill on the part of the CWS worker.

Compounding the problem is that inadvertently false allegations may be elicited from children who have been led or coaxed into false statements by improper interviewing procedures. A notorious example of this is the McMartin case in Los Angeles. Four years ago the prosecution believed all the statements the children made about underground tunnels to the sea, molests in hot air balloons, and killing and burying large and small animals. Seven defendants were charged with these acts because of the children's testimony. Later charges were dropped against five of the seven, as the prosecution realized the charges could have been the product of improper investigation techniques.

Another category of high incidence of false allegations can be found with emotionally troubled children or teens. Although there has been a widespread notion that, "children don't lie about abuse," this is being seriously questioned as more incidences of false reporting by teenagers in a variety of situations appear. These cases have appeared in school and institution settings, as well as in private homes. An area of high incidence of such false reporting occurs with older child placements into foster or adoptive homes. This topic has been addressed at professional adoption and foster care conferences and in publications. However the CWS worker may not be aware of these special cases due to insufficient training. These cases also can have deleterious effects upon the child and their new family if not handled appropriately. (Note the attached case history appended to this critique.) There is no information in this report of minors who are placed directly into Permanent Placement because parents are being cited as "uncooperative" as they refuse to agree to service plans in which they must first admit guilt. **The number of parents who refuse to admit guilt could be found by reviewing the worker's case notes, and should be cross-referenced with case outcomes.**

TABLE 8

YEAR-TO-YEAR COMPARISON OF
PLACEMENT PROGRAMS CASELOAD BY
REASON FOR REMOVAL FROM HOME DURING
CALENDAR YEARS 1984 AND 1985

(Monthly Average)

REASON FOR REMOVAL	PLACEMENT PROGRAMS TOTAL				DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES B/	FAMILY REUNIFICATION				DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES B/	PERMANENT PLACEMENT				DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES B/
	1984		1985			1984		1985			1984		1985		
	NUMBER	PERCENT	NUMBER	PERCENT		NUMBER	PERCENT	NUMBER	PERCENT		NUMBER	PERCENT	NUMBER	PERCENT	
TOTAL	33,528 A/		37,684 A/			17,918 A/		21,682 A/			15,610 A/		16,002 A/		
CHILDREN WITH VALID ENTRIES C/	32,835	100.0	37,526	100.0		17,539	100.0	21,566	100.0		15,395	100.0	15,959	100.0	
NEGLECT	12,643	38.4	14,287	38.0	.4	6,585	37.5	8,049	37.3	-.2	6,058	39.3	6,238	39.1	-.2
CARETAKER ABSENCE OR INCAPACITY	7,712	23.4	8,794	23.5	.1	3,165	18.0	4,152	19.3	1.3	4,547	29.5	4,642	29.1	-.4
PHYSICAL ABUSE	6,290	19.1	7,122	18.9	-.2	4,137	23.6	4,814	22.3	-1.3	2,153	14.0	2,308	14.5	.5
SEXUAL ABUSE	3,398	10.3	4,340	11.6	1.3	2,387	13.6	3,163	14.7	1.1	1,011	6.6	1,177	7.4	.8
CHILD DISABILITY/ HANDICAP	1,326	4.0	1,252	3.4	-.6	544	3.1	542	2.5	-.6	782	5.1	710	4.4	-.7
EXPLOITATION	120	.4	159	.4	0	57	.3	87	.4	.1	63	.4	72	.5	.1
OTHER UNSPECIFIED	1,446	4.4	1,572	4.2	-.2	665	3.8	759	3.5	-.3	781	5.1	813	5.1	0

A/ Subgroups may not add up to total due to computation and rounding processes.

B/ Numbers in this column represent the difference between the proportion in calendar year 1984 service population and calendar year 1985 service population

C/ Those children whose case plan goal was not reported were excluded.

REASONS FOR REUNIFICATION

Although the most frequently cited reason for termination of cases in the Family Reunification Program was *reunification with parent or guardian*, (Table 13), the number was only 70%. **The reasons for the failures of the reunification process are not documented, but need to be if the program is to be improved.** Were the expectations too great for parents with few resources? For example, were parents with poverty-level income expected to obtain housing that was beyond their economic means, or were they mandated to go to classes or therapy to which they had no transportation, or funds. Were chemically-dependent parents mandated to rehabilitate themselves yet they could find no available program? Failure of the Reunification Program must be studied more thoroughly if families are to be helped.

Of the approximately 70% of the cases reunited with their families, 83% of those cases (455 out of 550) were court-ordered (Table 14). The reasons for and types of cases which are court-ordered reunification versus not court-ordered need to be determined, particularly in light of the fact that the average stay for non court-ordered reunification is only two and a half months versus seven months for court-ordered reunification. As separation from family is known to be damaging, especially for a young child, it seems appropriate to move cases toward a *no court* reunification experience.

PERMANENT PLACEMENT TERMINATIONS

For the Permanent Placement Program, the largest percent of terminations are categorized as *other* (Table 13). Table 14 breaks this information down further. *Age of Majority or Emancipation* accounts for the largest number of terminations in the Permanent Placement Program (31%). There has been severe criticism from many areas that these children are not adequately prepared to fend for themselves at age 18 or 19, or in some cases, even younger. The number of children being emancipated should be of serious concern considering what is or is not being provided for them.

A significant number, approximately 34% (figure derived from Table 14 by adding together reunification with parent/guardian and adoption placement with a family member) have been returned to a biological relative. **This raises the question if children could be reunited with a family member, why did they ever enter the Permanent Placement Program?**

DEATHS NOT ACCURATELY REPORTED

However, a disturbingly high number (20%) have their cases terminated by running-away, or other unspecified reasons, including death. (See Table 14) In two years (1984 & 1985) a total of 54 minors had their cases terminated mysteriously under the broad category of *Other Unspecified (Includes Death of Child)* monthly. This is approximately 650 children per year. Minors who permanently ran away from the foster care placement averaged 39 and 61 program exits monthly in 1984 and 1985 respectively. The report shows an increasing trend of running away, as the percent increased from 4.7% in 1984 to 6.1% in 1985.

These are alarmingly high numbers and percents need very careful scrutiny, and further break-down. In previous years reports, termination by death of a minor was a separate category, but that information is obscured in this report. Suicide, or other conscious or unconscious self-destructive behavior, undoubtedly accounts for some of the older-child deaths. The problem of teen-age suicide has increasingly become a national concern, and approximately 10% of the children in Permanent Placement, and 4% in Family Reunification, had their cases terminated for *Other Unspecified (Includes Death of Child)* A very clear breakdown of eleven other possible termination reasons are given, and it seems as if death, both accidental or otherwise, must account for a large portion of the *Other Unspecified (includes Death of Child)* category, and deserve a separate category by themselves. In addition, a recent

TABLE 13

YEAR-TO-YEAR COMPARISON OF PLACEMENT PROGRAMS CASELOAD BY
REASON FOR CASE TERMINATION
CALENDAR YEARS 1984 AND 1985
(SUMMARY OF TABLE 14

(Monthly Average)

REASON FOR CASE TERMINATION	PLACEMENT PROGRAMS TOTAL				DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES A/	FAMILY REUNIFICATION				DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES A/	PERMANENT PLACEMENT				DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES A/
	1984		1985			1984		1985			1984		1985		
	NUMBER	PERCENT	NUMBER	PERCENT		NUMBER	PERCENT	NUMBER	PERCENT		NUMBER	PERCENT	NUMBER	PERCENT	
TOTAL	830		1,002			615		750			215		252		
CHILDREN WITH VALID ENTRIES	830	100.0	1,002	100.0		615	100.0	750	100.0		215	100.0	252	100.0	
REUNIFICATION WITH PARENTS OR GUARDIAN	488	58.9	608	60.7	1.8	440	71.6	550	73.4	1.8	48	22.7	58	23.20	.5
PLACEMENT WITH RELATIVE	126	15.2	130	13.0	-2.2	107	17.5	109	14.5	-3.0	19	8.9	21	8.4	-.5
ADOPTION PLACEMENT	39	4.6	47	4.7	.1	6	.9	7	9	0	33	14.2	40	15.6	1.4
OTHER	177	21.3	217	21.6	.3	62	9.2	84	11.2	2.0	115	53.40	133	52.8	-.6

A/ Numbers in this column represent the difference between the proportion in calendar year 1984 service population and calendar year 1985 service population

TABLE 14

YEAR-TO-YEAR COMPARISON OF PLACEMENT PROGRAMS CASELOAD BY
REASON FOR CASE TERMINATION
CALENDAR YEARS 1984 AND 1985
(Monthly Average)

REASON FOR CASE TERMINATION	PLACEMENT PROGRAMS TOTAL 1984 NUMBER	PLACEMENT PROGRAMS TOTAL 1984 PERCENT	PLACEMENT PROGRAMS TOTAL 1985 NUMBER	PLACEMENT PROGRAMS TOTAL 1985 PERCENT	DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES A/	FAMILY REUNIFICATION 1984 NUMBER	FAMILY REUNIFICATION 1984 PERCENT	FAMILY REUNIFICATION 1985 NUMBER	FAMILY REUNIFICATION 1985 PERCENT	DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES A/	PERMANENT PLACEMENT 1984 NUMBER	PERMANENT PLACEMENT 1984 PERCENT	PERMANENT PLACEMENT 1985 NUMBER	PERMANENT PLACEMENT 1985 PERCENT	DIFFERENCE BETWEEN CALENDAR YEAR PERCENTAGES A/
TOTAL	828		1,004			613		750			215		250		
CHILDREN WITH VALID ENTRIES	828	100.0	1,004	100.0	100.0	613	100.0	750	100.0	100.0	215	100.0	250	100.0	100.0
REUNIFICATION WITH PARENT OR GUARDIAN (COURT)	396	47.8	503	50.0	2.2	358	58.3	455	60.7	2.4	38	17.8	48	19.3	1.5
REUNIFICATION WITH PARENT OR GUARDIAN (NO COURT)	92	11.1	105	10.4	-.7	82	13.3	95	12.7	-.6	10	4.9	10	3.9	-1.0
PLACEMENT WITH RELATIVE	126	15.2	130	13.0	-2.2	107	17.5	109	14.5	-3.0	19	8.8	21	8.4	-.5
ADOPTION PLACEMENT WITH RELATIVE	5	0.6	8	0.8	.2	1	0.2	2	0.2	0	4	1.6	6	2.3	.1
ADOPTION PLACEMENT WITH NONRELATIVE	18	2.1	17	2.0	-.1	3	0.4	3	0.4	0	15	7.2	17	5.4	-1.6
ADOPTION PLACEMENT WITH FORMER FOSTER FAMILY	16	1.9	22	2.2	.3	2	0.3	2	0.3	0	14	6.4	20	7.9	1.5
OTHER															
AGE OF MAJORITY OR EMANCIPATION	78	9.4	94	9.3	-.1	9	0.4	14	1.8	1.4	69	32.3	80	31.7	-.6
CHILD RAN AWAY FROM PLACEMENT	39	4.7	61	6.1	1.4	22	3.5	36	4.9	1.4	17	7.8	25	9.9	2.1
CHILD REFUSED SERVICES	4	0.5	4	0.4	-.1	1	0.2	2	0.2	0	3	1.3	2	0.9	-0.4
GUARDIAN	2	0.2	4	0.4	.2	1	0.1	1	0.2	.1	1	0.5	3	1.5	.8
OTHER UNSPECIFIED (INCLUDES DEATH OF CHILD)	54	6.5	54	5.4	-1.1	29	4.7	31	4.1	-.6	25	11.5	23	9.1	-2.4
AVERAGE TIME SPENT IN PLACEMENT (MONTHS)	27.9		26.4			6.6		6.3			49.1		46.4		

For these Family Reunification case terminations which have been successfully reunified with their parent(s) or guardian, the average time spent in placement is as follows:

Reunified with parent or guardian (Court) (Months)	7.2	6.8	-.40
Reunified with parent or guardian (No Court) (Months)	2.6	2.5	-.10

figures cited by the Select Committee on Children Youth and Families report that incidents of child deaths in foster care are of serious concern . **That nearly 10% of the children in Permanent Placement foster care are having their cases terminated due to unclear reasons titled,*Other Unspecified (includes death of child)*, needs immediate attention.**

REPORT ---- "LITTLE HOOVER" COMMISSION
MARCH 1987

A report of the Commission on California Government Organization and Economy entitled *The Children's Services Delivery System in California* states that, "California's Children's Services delivery system is in a state of utter confusion and disarray." (Report, p.1) It further states, "While some children are fortunate enough to benefit from the state's current chaotic system of providing services, a greater number of children that desperately heed help are not being served at all." It goes on the state, "There is inadequate information regarding the outcomes of reported cases of neglect and abuse. Thus the benefits of the current system for handling neglected and abused children and it cost effectiveness are difficult to determine." (Report, p. 13)

The report's findings relevant to the abused and neglected child include the following:

1. Government's role is ambiguous and results [illegible] an overburdened CPS delivery system due to a large number of reports [illegible] abuse and to a lack of clearly defined priorities;

2. Courts are not able to deal with neglect/abuse cases in a timely manner thereby further traumatizing children;

3. Current approaches to investigating allegations of neglect/abuse may prove damaging to families and children - interpretations of abuse are too broad and this has resulted in increased reporting; repeated interviewing traumatizes children; unsubstantiated reports do not necessarily imply that no abuse has taken place (**False Negatives**), but it is not possible to tell with the data at hand what percent may have been substantiated later with a subsequent report and investigation; evidence does suggest that unintentional false reporting, as well as malicious reporting, is increasing (**False Positives**);

4. There is a serious lack of comprehensive training and procedural guidelines for investigating;

5. There is a shortage of appropriate services and resources for those who are abused;

6. There is a serious need to reevaluate the requirements for dependency including an evaluation of the degree of harm to the child; reevaluate and establish conditions under which a police officer or a social worker may remove children from their homes without a court order.

This report serves to further underscore the need for better evaluations of the Preplacement Preventive Services Programs and the Placement Programs. A proper evaluation could form the basis for establishing definitions and training programs, but such an evaluation would definitely need to examine the false positives and the false negatives inherent in the system.

CHILD WELFARE SERVICES REPORT

OCTOBER 1987

In October of 1987 the *Child Welfare Services Report* was forwarded to the state legislature by the Health and Welfare Agency of the Department of Social Services. This report was intended to update the legislature on:

1. The operation and progress of the Child Welfare Services (CWS) programs
2. The differences among counties in their implementation of these programs
3. To report the results of the 1986 CWS Case Review along with a description of corrective efforts (Report, p. ii)

METHODOLOGY USED

The data for this report was generated by a stratified random sampling of cases from each of the 58 counties in the state. A total sample of 1853 cases encompassing all 4 programs was obtained. These cases were then reviewed and rated for compliance based on specific items covering 30 elements. Pass/fail criteria were established as follows:

TO PASS:

100% of 5 critical items had to be correct in the file; these items dealt with current assessment/reassessment, current service plan, timeliness of court/administrative reviews, and Permanency Planning hearings.

In addition, 83% of the remaining 25 items deemed essential had to be correct, these items pertained to client identification, time-frame for completion of reports/assessment plans and evaluations, appropriate administrative signatures, description of the services, home/facility in which the child is to be placed, parent/guardian signatures, arrangement for visitation, timeliness of initial and continuing social worker and parent/child contact, parent notification of hearing, court order that reasonable efforts were made to prevent placement, or in an emergency that the lack of preplacement preventive efforts was reasonable, appropriateness of person conducting administrative reviews, etc.

FINDINGS

This evaluation revealed that only 21 of the 58 counties were in compliance as defined by the above criteria. The statewide error rate over all four programs was 10%, or greater, for the following elements:

Elements	Failure Rate
Joint adoption review	42.25%
Reasonable Efforts statement on Court Order	31.50%
Social Worker's Contact with Foster Parent	23.11%
Social Worker's Visit with Child	19.64%
Parent Signature on Service Plan	17.89%
Court Open to Parent/Child	14.02%
Identifying information to locate child	12.94%
Current Service Plan	11.33%

In contrast, other relevant items such *necessity/appropriateness of services, necessity/appropriateness of placement, and extent of compliance with service plan* , had error rates of less than one percent. Based on this information, it would seem that if a worker could justify and document the necessity for taking a child from his/her family and placing the child in foster care, then there should be documentation of *reasonable efforts to prevent placement,*, if indeed, any were made. However, 31.50% of the cases, nearly one third, failed on documenting reasonable efforts being made to prevent placement. Clearly this discrepency denotes the existence of a very serious problem. The passed item,*necessity and appropriateness of placement* , is merely a proforma statement inserted into the court petition, often times necessitating a mere check in the appropriate box, and not based upon detailed investigation. Likewise, in some counties, presumably the passing ones, the *reasonable efforts to prevent placement,*, a failed item, may also be complied with by checking off a box on the petition with no supporting information presented. Those counties that had a higher percentage of compliance with *reasonable efforts* might have had the same, or even fewer services and/or workers, but merely more consistent in insertion of the proforma statement. **Compliance with *reasonable efforts to prevent placement* definitely needs to be audited. The audit should focus on procedures, programs and interventions offered, and not merely the presence of a proforma statement.** (See appended case history for an example of this method of documenting *reasonable efforts* when none have been made.)

EMERGENCY RESPONSE PROGRAM

Within the Emergency Response Program, the error rate for *reasonable efforts* was 21.36%. Regarding this item the report states, "This may reflect procedural problems (failure to include this in the court order even though reasonable efforts have been made), or it may reflect failure to provide reasonable efforts to prevent placement." (Report, p. 9) While the former reason is easily remedied by establishing and enforcing corrective procedures, the latter is not, and it is of very serious concern as it may well represent irreparable damage to children and families. Failure to make reasonable efforts before removing children undermines the legislative intent of the PL 96-272 and SB 14 reforms. It is also a potential source of psychological, emotional, social and economic devastation to the family.

FAMILY MAINTENANCE REPORT

Within the Family Maintenance Program, high error rates ranging from 12.45% to 15.11% occurred for items dealing with current assessment, current service plan, timely initial service plan, parent(s) signature on service plan, and projected term of service. The highest error rate, 15.11% was associated with parent(s) signature on service plan. The report states, "Regulations require that the parent(s)/guardian(s) sign the service plan, or that there be documentation in the case record of the reasons for failure to sign the plan . . . Some of the acceptable reasons for failure to sign the service plan can be that the parent denies the abuse/neglect allegations or that the parent's legal counsel advises the parent not to sign." (Report, p. 10)

In evaluating the Family Maintenance Program, it is of prime importance to know how many parents refused to sign because of denial of charges. (This problem is discussed at length in the section pertaining to the January 1987 Report.) The CWS Department maintains that success in this program is dependent upon parent cooperation. The "non-cooperative" parent may very well be the victim of malicious or mistaken reporting, a false positive case, where the charges are indeed unfounded. It is important to learn more about these cases so as to establish procedures and guidelines that will prevent the program from damaging families. Otherwise, the 'cure' is worse than the 'disease.'

FAMILY REUNIFICATION PROGRAM

Within the Family Reunification Program, the items with the highest error rates were as follows:

Elements	Failure Rate
Joint Adoption Review	42.50%
Reasonable Efforts Statement	35.17%
Parent(s) Signature	20.67%
Social Worker contact with foster parents	16.89%
Identifying information of FCIS	14.32%
Court open to parent/child	14.25%
Supervisor signature on service plan	10.48%

Again, as with the state-wide compliance rate, these figures specific to Family Reunification, echo the same problem areas. Some of these items need to be looked at together, and not in isolation. **For instance, the failed Family Reunification cases that enter Permanency Planning might be checked against the cases lacking parent signatures.** It is a chilling thought to think that innocent families may be torn apart because parents refuse to sign agreements while denying false charges, and that after one year, when the caseworker says that Family Reunification was unsuccessful, the child is moved to Permanent Placement Program for adoption. The high error rate for lack of parent signature, and the lack of further explanation, should set off an alarm nationwide saying that false positives must be included in evaluating the efficacy and ethics of this type of program.

LOCATION OF FOSTER CHILDREN

The *identifying information* item on the Foster Child Information System (FCIS) deals with the physical location of each child in foster care. The error rate implies that this program can 'lose' 14.23% of its children at any one time. In this program there is contact between parent and child, however, there may be delays in parent/child reunification meetings if the location of the child cannot be verified.

PERMANENT PLACEMENT PROGRAM

Within the Permanent Placement Program, the items with the highest error rates were as follows:

Elements	Failure Rate
Social worker's contact with foster parent	29.16%
Social workers' contact with child	19.64%
Supervisor's signature on service plan	14.39%
Documentation of court open to parent/child	13.65%
Identifying information of FCIS	11.54%

All of the above items are unsettling, but particularly disturbing are the explanations cited in the report for the last two items. Regarding *Documentation of court open to parent/child* the report cites ignorance as the cause. It states, "Some social workers believed that a parent who was no longer committed to the child, but whose rights had not been terminated, did not need to be notified. In other cases, social workers neglected to provide notice to children 14 years of age and older." (Report, p. 17) Such actions clearly are violating parent and child rights.

Lack of identifying information on the location of the foster child is a consistent problem in both Family Reunification and Permanent Placement programs. The report states, ". . . PL 96-272 requires SDSS to report to the federal government, upon request, specific information on children in foster care, including location and length of stay. In some cases, counties provided a post office box as a child's physical location." (p. 15). In other cases the business address of the placing agency was used. The error rate on this item implies that this program can 'lose' 11.54% of its children. Even though the parents are no longer guardian of the child, that parent, sibling, or other relative may wish to contact the child in Permanent Placement, but may be unable to do so because the location of the child has been lost. Another alarm-- some family may not ever be able to contact their child or relation once he/she has been taken.

CALIFORNIA STATE DSS REMEDIATION PLANS

Before publication of this report, the SDSS and county welfare directors reviewed the findings and developed remediations plans. They jointly determined the causes of problems to lie in the following areas:

1. The remediation plan made SDSS specifically responsible for the following remediation:

2. Ensuring that the counties are aware of statutory requirements by providing, ". . . the statutory language and clarifications through all county notices." (p. 17)

3. Ensuring that counties are able to meet regulatory requirements by revising those CWS regulations which were identified as being too restrictive or unclear.

The latter approach seems to be one of tailoring the rules to fit the observed actions of the workers, whether they be helpful or not, and not one of remediation. Also included is a plan that appears to be an attempt at educating or training of workers in the system. The State Department of Social Services, and those counties that passed the compliance reviews, and were identified as models of good CWS practice, are to provide workshops in the following areas:

1. Coordination of activities with the Juvenile Court system to ensure that counties are meeting statutory and regulatory requirements for proper notice, timeliness of hearings, and completeness of court orders.

2. Proper documentation of case records to ensure that counties are meeting requirements for joint adoption reviews, parent and supervisor signatures on service plans, timely contacts with children and foster parents, timely response to child abuse referrals.

3. Successful development and implementation of county systems to ensure that there are effective procedures for transferring cases, completing forms, establishing quality control processes, and training staff.

FAILURE OF DSS REMEDIATION PLAN

Educational efforts are desperately needed, but their suggested remediation plan focuses on how to have the proper paperwork in the file. Although this is important, it does not address the real problem of the quality of the services provided to children and their families in the state of California. The remediation does not address preventing possible damage to children and families by inappropriate intervention. **The data demonstrates that a serious problem exists, and that at the heart of this problem are the important issues of definitions of child abuse/neglect and reasonable efforts, and the necessity of looking at false positives and false negatives.** This type of information should be the basis for improving child and family services.

CURRENT TRAINING STATUS OF CWS WORKERS

In addition to the foregoing, this 1987 report also examined the compliance rating and its dependency on caseload per worker, supervisor-to-staff ratios, cost per case, and support costs per case. *None* of these factors was found to be related to compliance. In the discussion of these findings, it was maintained that compliance was related to the ". . .establishment of effective procedures for handling work related tasks. . . "(Report, p. 24) The passing counties had well-organized systems in place which were characterized by color-coded forms, accessible statutory regulations and procedure manuals, and "regular training to update professional knowledge and skills." It is this latter component which cries for attention and that has never been assessed.

Presented below is a table showing, for each of the four programs, the total amount spent statewide for the program, the total amount spent on staff development, the percent of the total spent of staff development, and cost per CWS worker. (This table has been generated by information provided in the appendices of the report. The 'Per Worker' column was derived by dividing the total spent on staff training by the total number of workers.)

Staff Development Expenditures by Program for 1986

Program	Total Budget Amount	Staff Training	Percent	Per Worker
Emergency Response	26,787,335	60,103	.22%	$44.89
Family Maintenance	14,106,598	28,613	.20%	$35.32
Family Reunification	18,251,574	210,439	1.15%	$192.37
Permanent Placement	9,862,176	104,293	1.05%	$172.21
TOTAL	$69,007,683	$403,448	.58%	---------

As can be seen from the above table, approximately 1%, or less, of the total program costs has been spent on staff development. This low amount seemingly reflects very low effort at providing relevant training. The Emergency Response and Family Maintenance Programs have incredibly low expenditures, and yet they are the two programs designed to prevent placement, in compliance with PL 96-272 and SB 14. Emergency Response also has the biggest potential for harming families as they are the program through which crucial initial screening is done.

REVIEWER RECOMMENDATIONS

TRAINING / EDUCATION OF WORKERS

The data supports the need for an educational component that is currently not being met. The report implies that current low-levels of staff expenditures do not even meet the current need for proper paper-flow organization to coordinate the simpler mandates of PL 96-272. The more difficult mandates, providing for reasonable efforts to prevent placement and to reunify families, cannot hardly be addressed considering the low level of resources placed into staff training. **Germane to this training/education component are definitions of child abuse, neglect, and reasonable efforts, as well as, knowledge of false positives and false negatives.**

In addition to staff development, the educational background of workers also needs to be assessed. A national study commissioned by the Children's Bureau of the Department of Human and Health Services showed that no state required any entry level child welfare workers to either be licensed, or even have a social work undergraduate or graduate degree. These workers appear to be the most poorly trained, with very large caseloads, and with little on-the-job training. Although it is presumed that the CWS workers have some educational interest and training relevant to social welfare, state law does not mandate any licensing or credentialing of the direct service providers. Consequently, prior training cannot be assumed when a new child welfare worker begins employment. **A study of the educational background of the CWS workers needs to be undertaken, to determine if there is a relationship between the educational level of the CWS workers, and compliance with PL 96-272.** Such a study may provide not only guidelines for determining necessary background qualifications for competent CWS workers, but also may serve as defining some of the educational content necessary for relevant in-service training. The job is an awesome one due a worker's ability to destroy the bonds of a family, and yet, they may have no knowledge of what he/she is doing.

After a worker has removed a child from the home, there may exist a natural prejudice against return of the child to that home, and/or an animosity has developed between worker and family due to the adversarial nature of the court proceedings. If a worker was to initiated Family Reunification, it is accomplished much faster, as the average stay in foster care is only 2 1/2 months versus seven months for court-ordered reunification programs. **It is important to assess the family perceptions and biases held by CWS workers to see how they affect outcomes of cases.**

An additional problem, also not addressed by any of the previous evaluations, is they type of foster care placement the child enters while the case is in the Family Reunification program. Although there is a chronic shortage of foster homes, there does appear to be more fost-adopt homes available than normal foster homes. Some potential adoptive parents, discouraged by the long waiting list to adopt, have opted to be fost-adopt parents, hoping that Family Reunification fails and the child becomes theirs permanently. Workers, often desperate to find a placement, can be tempted to place children inappropriately in a fost-adopt home. The worker, instead of truly attempting to make family reunification successful, may be biased in favor of the fost-adopt parents to whom he/she has already half-promised the child. **A careful case study analysis of what factors influenced the placement of children into fost-adopt homes, and their eventual outcome, needs to be undertaken.**

An additional problem, again not addressed in the report, is the role of cultural diversity in the diagnosis and treatment of alleged neglect and abuse. Knowledge of other cultures, and their child rearing practices, must be addressed in the staff training of CWS workers. Many cultures utilize corporal punishment more extensively than is recommended by contemporary psychologists. This practice, which may leave marks, could be labeled abusive, although, from the perspective of that culture, not to use corporal punishment would be considered neglectful. **Cross-referencing between specific ethnic groups, and types of alleged abuse, need to be analyzed to alert workers to differentiate between true abuse and cultural diversity. This knowledge could also target specific populations for intensive educational efforts, so as to help them avoid conflict with the prevailing cultural norm.**

ORIGIN OF ALLEGED ABUSE REPORT

Although past SDSS reports addressed characteristics of the alleged perpetrator, no report cited the source of the complaint. How many were originally made by teachers, doctors, neighbors, family members, a parent complaining against the other parent, strangers, and anonymous reporting? **The source of the complaint should be cross-referenced with the outcome, to determine which reporting sources were the most and least reliable.** This information could be useful to developing training for Emergency Response program personnel. Furthermore, this will soon be important information as new federal regulations in the reauthorization of funding for the Child Abuse Prevention and Treatment Act are requiring more accurate reporting of unfounded, unsubstantiated, and substantiated cases of abuse.

Some initial reporting of abuse or neglect originates in divorce disputes in Family court. Nowhere, in any of the evaluations, has this been taken into consideration. Even though, in a family court setting a child may not be removed from his/her home, and thereby placed into any of the specific categories of Family Reunification or Permanent Placement, they can be denied access to a non-custodial parent for months, or years, with no mandated court review . This is the limbo state which PL 96-272 tried hard to avoid for children. Although PL 96-272 does seem to be working to some extent, at least when a child is completely removed from his/her biological family, the law has not been applied to divorce situations. **Future reports need to address children of divorce who could be said to have two families. Compliance with PL 96-272 needs to be monitored in the Family Court arena, as well as Juvenile Court.** Separation from either parent could logically dictate that the same court review processes and family reunification services be used in Family Court; however, this is not done.

SUMMARY

In the future the proper basis of analysis should be the family, as it is the intended unit to be served under PL 96-272. A longitudinal cohort study should be undertaken which audits the case and includes interviews with the clients served, as well as the initial reporter. Although data from the case notes have been utilized in the analysis of these evaluations, there is no survey of services provided from the perspective of the intended client, the family. **The parents' perceptions on the value of intervention, as well as the obstacles to reunification with their children, is essential feedback to make the system more efficient.**

Problems exist throughout the system, and compliance with federal and state mandates are not being met. **Noncompliance with existing law leaves individuals, and their governmental employer, liable for lawsuits for violation of civil rights and damages for personal injury, particularly due to a recent Supreme Court decision (Berkowitz vs. U.S.) which limits governmental immunity when laws have been violated.** State and county funds are limited for training, and looking ahead realistically, it is unlikely that there will be large surpluses for this purpose in the near future. Even with limited money available for training, enhancing compliance with PL 96-272 is essential, if for no other reason than to avoid incurring liability. Perhaps the most effective prevention measure is to carefully screen cases entering the system to avoid both false positives and negatives, and potential litigants. Germane to this are the definitions of exactly what is child abuse. **At present, this most fundamental issue of definitions of child abuse has not been addressed by any of these evaluations.**

Many of the problems of defining child abuse, and problems with out-of-home placements, may be to a large extent be avoided, if family based services were provided. Family based services is a new concept in the diagnosis and treatment of child abuse and neglect. It relies upon a very low staff to client ratio, and adequate support services to deal with the crisis that the family is facing, with very little usage of out-of-home placements. The success rate has been very high, as measured by large declines in out-of-home placements, and reoccurrence of abuse. In addition, many states are turning to it for child welfare services because of cost savings due to very limited usage of traditional foster care and avoidance of legal proceedings. **Future reports should project the anticipated cost savings of conversion to the family based services model.**

"REASONABLE EFFORTS"

A SANTA CLARA COUNTY PROBATION DEPARTMENT SAMPLE CASE

by

Shoneen Gervich

Our son, A, was a 13 year old older-child adoptee placement who had resided, with his older sister, P., in our home for less than a year when, in May of 1986, the County of Santa Clara intervened, and ultimately destroyed our family life. My husband and I, married for fourteen years but childless, had accepted the challenge of adopting an older East-Indian sibling pair. Jason was a manager at Apple Computer, and I was an instructor at the local community college and resource teacher at the County Office of Education. In addition, I served as a board member of a local private adoption agency. After a blissful honeymoon period lasting many months with A., we awakened to the fact that money and many other items were missing. We tried many approaches to the problem, but all seemed unsuccessful. Finally, in consultation with our therapist, A. was placed in Juvenile Hall for what we thought would be a few days. When he first arrived in detention, A. cried to come home, even kissing our feet in the Indian traditional way. Later, he became angry for our part in confining him, and made flamboyant allegations of severe physical abuse.

Juvenile Hall staff soon realized he was fabricating the physical abuse stories, but they refused to permit A. to return home until he said he wanted to go home. A. said, in typical older-child adoptee fashion, he wanted a "new" Mom and Dad. For over two months, we, the "old" Mom and Dad, ardently attempted to woo the child back into our home, but we were unsuccessful. Later, we wanted him placed temporarily in a therapeutic setting to help with his behavioral problems, and finally, five months later, we attempted to relinquish A. to a private agency because the fledgling adoptive family bonds had been broken by the prolonged separation. No charges against us were filed for the first five months, although we had been illegally prohibited from normal visitation with our legally adopted child.

In October 1986, five months after A. initially left our home for a "weekend" in Juvenile Hall, the County filed emotional abuse charges, to gain legal sanction for their on-going custody. For the next eight months the unresolved allegations of abuse hung over us as a dark pall. I was so emotionally devastated, I was unable to work. We invested large sums of money in legal fees, eventually mounting to over $10,000, and we lived in constant fear of A.'s older sister, P., being removed if she voiced any domestic complaints. The atmosphere was tense, and not conducive to building adoptive family bonds.

This extreme stress for over a year made normal family relations impossible with 17 year old P. . Although there were many good times with her which we will forever cherish, she too expressed her anger in an inappproprate way by taking items that were important to us. We desired to place her in a group-home, where we could still maintain contact, but not feel as if we were being held hostage if we dared to raise our voice at her or confront her with the missing items. Although we loved and cared for P., the potential for more false allegations proved fatal to normal family life. Again, visitation was denied us, although no abuse charges were filed in relation to our adopted daughter.

Although we originally very much wanted to parent these children, due to County intervention, this has not been possible. As a result of the subsequent trial, the abuse allegations were dropped "Nunc Pro Tunc", meaning the original charges were an "inadvertent error", but it was too late; we, as a family, had already been destroyed by the very legal process designed to rescue falsely accused parents.

Nanci Q. Bent, the author of an eleven page court report on us, and case worker for the preceding eight months, had never exchanged more than a few perfunctory sentences with either myself nor my husband, nor had she ever discussed the alleged abuse with us. The following excerpts from her court report details what "reasonable efforts" were made in behalf of our family.

Page 8 "In terms of preplacement preventative services being offered, there have not been any."

Page 9 "The undersigned (Nanci Bent) does not feel it is appropriate to discuss reunification with either of these children."

Page 10 "... reasonable efforts have been made to prevent or eliminate the need for removal of the child from his/her home, and to make it possible for the child to return home:

In addition, the probation officer makes termination of parental rights a certainty by the following two statements:

Page 10 "That there be no contact whatsoever with said minor and his/her adoptive parent"

Page 11 ". . . their parental rights may be terminated permanently under these sections if they are not able to resume custody within 12 months."

Why were we, non-abusing parents, severed from our legally adopted children? Why are there so many obvious contradictions, even lies, in this official document? The false assertion of reasonable efforts having been made brings the county in compliance with state and federal law, and eligible for federal grant money, even though in actuality no efforts were made.

However, money, or lack thereof, was not in any way responsible for the County's destruction of our family. If we had been left alone when it was discovered the abuse stories were fabricated, the taxpayer would have saved approximately $50,000 in foster care costs for four years, and more for prosecutorial costs of us, and continuing court supervision of A. as a ward of the County. If there was any lack, it was in training and common sense. Those responsible were not trained professionals knowledgeable about typical behavior of older child placements, nor were they willing to listen to those who were. Parents aren't heard without entering the extremely slow and costly legal labyrinth. However, if the federal and state laws relating to reasonable efforts had been followed, this never would have happened. If our family was not deemed proper material for even **an attempt** at reasonable efforts, then it is the system, not the family, that is truly unreasonable.

VALUATION:

he Court is considering A and P Gervich, and the ndersigned is recommending that both of the minors be removed from the custody f the adoptive mother, Shoneen Gervich. The adoptive father, Mr. Jason rvich, relinquished his parental rights to both children on May 7, 1987. either of the children have American-Indian or Eskimo heritage. The undersigned will be referring the minors for 232 Civil Code proceedings due to the fact that Mrs. Gervich has indicated her intentions to relinquish both children, although she has not followed through.

In terms of preplacement preventative services being offered, there have not been any. A Gervich has been in the satellite home of X since July of 1986, wherein he presently resides. Ms. X has indicated a desire to adopt A and has been working very closely with the Department of Social Services Social Worker Ruth Skeels in order to finalize this process. Mrs. X has also indicated an interest in having P placed in her home, so as the brother and sister may live together while residing in the United States children.

Assessment:

It is difficult for the undersigned to understand Mrs. Gervich's position in stating her intentions to relinquish both Anthony and Pathima, but wishing to stay involved in their lives in order to ensure that they have, what she considers positive futures. The definition of relinquish as stated in Webster's New World Dictionary is as follows: "To give up, to renounce or surrender, to let go." The undersigned feels that is the intention of a relinquishment process, in that one lets go of a right, or in this case, an adopted child. It seems contradictory to state one's intentions to relinquish or let go, and still want to be involved.

It is very upsetting to both A and P for them to realize that Mrs. Gervich does not want them to reside in her home, but yet she wants to be involved in their future lives. Both of these children have stated they do not wish to be involved with Mrs. Gervich to any extent, and they are hurt and angry at her actions toward them. They are very confused regarding what has been dealt to them by the hands of Mr. and Mrs. Gervich and have no interest in allowing her to be involved in their lives at this time.

Family Reunification plans:

The undersigned does not feel it is appropriate to discuss reunification with either of these children. The undersigned is hopeful the placement of both A and P will be realized in the home of X It is very important that these children be allowed to reside together while in the United States. They have no family, and other than friends of the Gervich family, they have no one to support them in this country.

The undersigned is recommending that both minors be removed from the custody of Mrs. Gervich, and hopefully relinquishment will be accomplished in the near future concerning both of the minors.

RECOMMENDATIONS:

It is respectfully recommended:

1. That the allegations of the Petition filed June 8, 1987 be found to be true as alleged;
2. That the Petition filed October 17, 1987 be dismissed;
3. That said minor be found to come within the provisions and description of Section 300a of the Juvenile Court Law;
4. That said minor be adjudged a Dependent Child of the Court in and for the County of Santa Clara;
5. That it be found that the welfare of the minor requires that his/her physical custody be taken from the parents, as there is a substantial danger to the physical health of the minor, or would be if the minor were returned to the custody of the parents;

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6. As the parent or guardian is unwilling to have physical custody of the minor, and the parent or guardian has been notified that if the minor remains out of their physical custody for the period justified in Section 366.7 the minor may be declared permanently free from their custody and control under Section 232 of the Civil Code;

7. That reasonable efforts have been made to prevent or eliminate the need for removal of the child from his/her home, and to make it possible for the child to return home;

8. That said minor be committed to the care, custody and control of the Probation Officer for suitable relative/foster-home, private-institutional placement, with the Department of Social Services to supervise;

9. That said minor obey all rules and regulations of the facility or home in which he/she is placed;

10. That said minor continue in protective custody in the Children's Shelter pending execution of the above Order;

11. That the parents be referred to the Department of Revenue regarding reimbursement, and the Court advise the parents of their financial responsibilities in this matter;

12. That there be no contact whatsoever with said minor and his/her adoptive parent;

13. That the matter be continued until six months hence for a Review Hearing;

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14. That the Court advise all persons present:
    A. Of their right to be present at the Review Hearing;
    B. Of their right to be represented by legal counsel at the Review Hearing;
    C. Of the provisions of Section 366.25 of the Welfare and Institutions Code, and Section 232 of the Civil Code, and notify them that their parental rights may be terminated permanently under these sections if they are not able to resume custody within 12 months.

Respectfully submitted,
PEDRO R. SILVA
CHIEF PROBATION OFFICER

Nanci Quest-Bent
Deputy Probation Officer

Read and Approved:

Calvin Cooper - 3756
SPO I - Dependent Intake I

red - 6/10/87

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Dept. Intake-1-Bent/JD
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SANTA CLARA
JUVENILE COURT

In Behalf of A. M. GERVICH

Birth Date:

Age: 14

Address:

Telephone:

No. 91330

PETITION

I, the undersigned petitioner, allege:

(1) The person whose name, address, and age are shown in the above caption is under eighteen (18) years of age.

(2) This person comes within the provisions of Section 300 (a) of the Juvenile Court Law of California, in that:

SAID MINOR, A. M. GERVICH. ~~DURING THE YEAR LAST PAST, WAS INAPPROPRIATELY PHYSICALLY DISCIPLINED, AND FURTHER SAID MINOR WAS SUBJECTED TO EMOTIONAL ABUSE; FURTHERMORE~~ ~~SAID MINOR~~ REFUSES TO RETURN TO THE HOME OF HIS ADOPTIVE PARENTS. AND THE ADOPTIVE PARENTS HAVE INDICATED THAT THEY DO NOT WISH TO HAVE SAID MINOR RETURNED TO THEIR CARE AND CUSTODY; FURTHER THE ADOPTIVE FATHER OF SAID MINORS DID SIGN VOLUNTARY RELINQUISHMENT PAPERS FOR SAID MINOR ON MAY, 7th, 1987; HOWEVER, ON THAT SAME DATE THE ADOPTIVE MOTHER REFUSED TO SIGN THE NECESSARY PAPERS; FURTHER, SAID MINOR'S ADOPTIVE MOTHER HAS CONTINUED TO STATE THAT SHE DOES NOT WISH TO HAVE SAID MINOR RETURNED TO HER CUSTODY AND SAID MINOR DOES NOT WISH TO RETURN TO THAT HOME. THEREFORE SAID MINOR, A. M. GERVICH, HAS NO PARENT OR GUARDIAN WILLING TO EXERCISE, ACTUALLY EXERCISING PROPER AND EFFECTIVE PARENTAL CARE AND CONTROL AND SAID MINOR IS IN NEED OF SUCH CARE AND CONTROL.

as amended 4/29/87 nunc pro tunc agreed
JJM

The above charges of abuse were interlineated, and dropped Nunc Pro Tunc by Jamie Jacobs-May and Robert Masterson, who represented Santa Clara County and the children respectively. As the original charges stemmed from false allegations of abuse, and lack of proper therapeutic understanding of older-child adoptees, the prosecution was correct in admitting these allegations never should have been been filed in the first place.

I first became acquainted with the Gervich family in my professional capacity in March of 1986. After Anthony entered Juvenile Hall, I became more intensely involved with the family, and tried to intervene on their behalf with the Probation Department, but to no avail. Since that time I have become more involved with the Gervichs, particularly Shoneen. Our relationship has changed from one of client-therapist to mutual friends, and now to colleagues, as we work together under the asupices of VOCAL. After over two years of often daily contact with Shoneen, who was charged with emotional abuse, I can vouch for her emotional stability and maturity. This case, like so many others, was an unnecessary travesty, against both the parents, and ultimately, the children.

Carol Marks

Carol Marks, M.F.C.C.
Saratoga Center for Growth and Guidance
San Jose, California

EXCERPTS FROM LETTERS TO JUVENILE PROBATION PRIOR TO FILING ABUSE CHARGES ON THE GERVICHS

JUNE 1986

"(A.) gets his needs met even to the extent of fabricating stories, stealing, etc. . . . I feel his best course is to remain with his sister and adoptive family and engage in the therapeutic process;"

Vern Wallace, MFCC intern
Juvenile Hall Therapist
San Jose

"I have had extensive telephone conferences with Mr. and Mrs. Gervich ... as they dealt with A.'s behavior. I observed Mr. and Mrs. Gervich to be committed parents who have extended themselves fully on behalf of A. and his sibling, P."

James H. Mehlfeld, L.C.S.W.
Adoption Specialist
Oakland

"My contact with A. in the last school year was two 50 minute periods a day. . . .We talked daily of things of a personal nature. . . . At no time in the year working with A. on a daily basis did I hear A. express negative feelings about his family or his treatment."

Mary Freeman
Instructional Aide
Palo Alto Unified School District

"I live next door to them, I see them daily, I've had ample opportunity to observe them and their behavior towards A.. It is not possible, in my opinion, for them to have engaged in child abuse."

Irvin D.Yalom, M.D.
Professor of Psychiatry
Stanford University School of Medicine

STATEMENT PRESENTED TO THE SELECT COMMITTEE ON CHILDREN, YOUTH AND FAMILIES AND THE SUBCOMMITTEES ON PUBLIC ASSISTANCE AND UNEMPLOYMENT COMPENSATION OF THE U.S. HOUSE OF REPRESENTATIVES WAYS AND MEANS COMMITTEE

By:

JEANETTE DUNCKEL, CHAIRPERSON
CALIFORNIA FOSTER CARE NETWORK POLICY BOARD
CHILDREN'S RESEARCH INSTITUTE OF CALIFORNIA
April 13, 1988

The Children's Research Institute of California and the California Foster Care Network thank you for the opportunity to submit this statement on the needs of abused and neglected children in foster care in California.

The California Foster Care Network was established in 1981 by the Children's Research Institute, and funded by California foundations. Its purpose is to involve concerned citizens in California with the issues surrounding the treatment of foster children in the State.

The eight regional Foster Care Networks in California have worked in their local communities to monitor the implementation of SB 14, the State legislation to implement P.L. 96-272, the federal Adoption Assistance and Child Welfare Act of 1980. The Networks also assist in making improvements in the care of foster children at both the local and state levels. The Foster Care Network has initiated a three year project on emergency shelter care in California, to assess the problems and to develop recommendations for improved services for the children in shelter care.

Emergency shelter care is the first placement for a child who must be removed from home because of abuse or neglect. It is intended to be a short term, temporary stay until the child can be returned home or placed in a more stable foster care setting, such as a foster family home or a residential treatment center. The problems in the foster care system are reflected and magnified in the emergency shelter care system in California.

A preliminary study of eleven major counties in California (of 58) has been completed by the project. Another 20 counties are currently being surveyed. To date, the data is corroborating the information the Networks have been concerned about: there are increasing numbers of children entering shelter care and they are bringing with them increasingly more difficult problems.

The number of children in shelter care, as reflected by the average monthly census in the 11 counties, has increased 83% between 1983 and 1987. The children are younger: In 1987, 71% are age 10 or below, as compared with approximately 52% who were age 10 or younger in 11 counties in 1984-85. The average length of stay in shelter care is 37 days, which encompasses stays of 2 days to 150 days. Counties reported this has increased over the last 3 years. When children leave shelter care, approximately 41% go home or to relatives, and about 55% go to foster homes, group homes or residential treatment centers.

The 11 counties in the survey reported a growing level of emotional and behavioral disturbances on the part of children entering shelter care. An average of 32% of the children in central shelter facilities are emotionally disturbed or mentally ill. Some counties reported as many as 60% of the children in shelter care are disturbed.

Approximately 32% of the children in shelter care are those who are "repeat placement" children. These are children whose foster placement has failed and they have been replaced in a shelter facility. These failures are often a result of the difficult behaviors of the children and a lack of appropriate placement options so that children can be matched with care givers.

Increasingly, there are infants entering shelter care who are addicted to drugs or alcohol because of their mothers' ingestion during pregnancy. In San Francisco, 12% of all the births at the county hospital are babies with drug or alcohol withdrawal problems. Thirty percent of these enter shelter care. In Contra Costa County there are 400 babies in foster care who were exposed to drugs and alcohol before birth. In Los Angeles there were 915 drug addicted babies in 1986 at an estimated costs of $32,373,000. In 1987, 1,442 drug addicted babies were born. This was an increase of more than 50%. In 1981 one Los Angeles hospital treated 28 drug addicted mothers. In 1986, the same hospital treated 277 suffered from chemical dependency.

A recent survey of 45 counties by the Alameda County Social Services Agency found that children needing special medical care constitute 34% of the foster care population. This includes children who require special medical regimes (injections, intravenous medication, etc.) infant drug addiction, fetal alcohol syndrome, and oxygen dependent children.

Federal leadership in providing preventive services to keep children out of foster care and in providing for skilled foster family homes for medically needy children would address two of the most pressing concerns about the foster care system today. Many of the children who enter shelter care for a very short period might be able to remain at home with the provision of services. Funding earmarked for specific preventive services, such as in-home caretakers, day treatment, emergency family care or day care has never been adequate.

Preventive services in California are funded by local Children's Trust Funds and by a statute passed in 1982 which provides an annual appropriation for innovative child abuse prevention and treatment services. Federal Social Security Title IV-B services funds are used to support emergency response and emergency shelter, as well as family maintenance, family reunification and permanent placement.

California has been using its Emergency Assistance program funds to support emergency shelter care for abused children and counselling and social work services during the early days of a child's removal from home. The State Department of Social Services is now requesting that the federal government allow California to use the money to fund preventive services and case management for children.

Many of the children who have special medical needs can be cared for in a foster family setting, rather than languishing in a hospital. However, these foster families need training and a rich mix of support services (medical and social) to be able to provide these children with the best environment possible. A higher rate of reimbursement is required to attract and retain these substitute families who will find themselves caring for extraordinary difficult children on a 24 hour a day basis. Currently, where foster programs for medically needy children exist in California, the families are being supported with Social Security Title IV-E maintenance funds.

Federal leadership is needed to prevent children from entering shelter care when it is appropriate. However, for a very significant number of the current children in California it is clear that current foster care settings require new modifications for the care of home like settings, for foster children requiring special medical care.

Your committee has provided leadership for us in the past for the tragic children whose own parents cannot or will not care for them. In the same way, we in California are confident that you will help us to assist the new phenomenon foster care children whose health needs are extraordinary.

Statement by Anne Whitt Thompson; trustee of Crossnore School, an orphanage in the North Carolina Blue Ridge; former member, Maryland Foster Care Review Board; author of "The Suitcases," an account of her life as an orphan and foster child.

I offer this statement as someone who has been a child in the foster care system and who has knowledge of the system as it operates today. I am a trustee of Crossnore School in the North Carolina Blue Ridge, an orphanage where I once lived, and I recently completed a four-year term on the foster care review board of Maryland

Shortly after the death of our mother, my two sisters and I - at ages five, six and almost eight - were taken from our father to become wards of the state. I am the middle sister. Within the next two years we had lived in two orphanages and three foster homes. Later, at age fourteen, I was sent to Crossnore, where I stayed until I was twenty.

I wrote of this in 1982 in a book titled "The Suitcases" which has become required reading for child care and social workers in several states and been taken by Reader's Digest in sixteen countries. I mention the book because I wish to show that I have given careful thought to my life as an orphan and foster child. I must establish now that I found nothing in that experience as terrifying as going into a foster home.

The concept of a home-like environment is appealing to adults who plan the placement of the foster child, but the reality is much different.

Entering a foster home is like being in a dream where you find yourself in the wrong place and don't know how to get out. You stand there stiff with fear as you are told that "these people will be your mother and father for a little while." This is the most difficult adjustment the foster child must face: I don't know them; they dont know me; and I don't know what is expected of me.

What a staggering demand to make of a child. A strange new home; a strange family; and you're to become a part of it. And most of all, don't cause any trouble.

My sisters and I knew each time we did not belong in these make-believe situations and learned to suppress our personalities as we tried to be acceptable to the families taking us in.

Children are possessive. One of the first words they learn is "mine." They speak with pride of their parents, saying "my mother does this" and "my father does that." They also like to think of "my room" and "my place at the table." But there is none of that for the foster child, who has no claim to anything. That child will increasingly ask, "Who am I and where do I belong?"

I have told you of my fears as a foster child. Let me contrast that with my life in the orphanage, which I found loving, stable and happy.

Children in orphanages develop a sense of self and self-worth. They do not see themselves as the "poor little orphans" you find in fiction and the movies. Adults who have grown up in an orphanage tell me it was their home and was a happy place. Social workers have told me that children in orphanages are well adjusted and are seldom troublesome. And while there are persons who ask if it wasn't a stigma being an orphan, I would choose that over being known as "the little welfare girl who lives with the Coburns up the street."

Children adapt to orphanage life because there are others there like them. They help and support one another in ways that adults could never use to reach them. There is kinship and a shared sense of loss. And it is far easier to adjust to life without your parents when you do not have to pretend that you are someone's else child.

There is little that is right with foster care and a great deal that is wrong. It may be the goal of the system to eliminate the years in limbo for the child awaiting adoption or return to the parents, but we know that is not happening. In my work with the review board I have listened month after month to cases of children whose permanency plans existed only on paper. The system is not designed to resolve these cases but rather to perpetuate them, and so the child lingers on, sometimes for years, to reappear again at the next cycle of review.

I see foster care as a trial-and-error method of dealing with the lives of children. I also see it failing, for all kinds of reasons. Giving the system more money is not the answer; what is needed is better use of the money we already have. If we took the resources available to us, we could build and operate any number of loving, stable homes for children, which I choose to call "orphanages." There the children could wait out a return to their parents or placement in adoption in a more secure setting than foster homes could ever hope to provide.

Having said that we should bring back the orphanage, I must also say that we as a society must do more to make parents responsible for their children.

At one time it was the loss of the parent that brought a child into the welfare system. Today it is the behavior of the parent. Until a stronger sense of parental responsibility can be established, we will continue to have a problem that can only get worse.

HARRIS COUNTY CHILDREN'S PROTECTIVE SERVICES

4040 MILAM HOUSTON TEXAS 77006
713 526 5701

June 6, 1988

Diana Kirkland
House Ways & Means Committee
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Ms. Kirkland,

This is a response to the testimony of Mr. Randy Burton presented to the Joint Hearing of the Subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means and the Select Committee on Children, Youth, and Families on Child Welfare and Adoption Assistance.

We believe Mr. Burton has drawn some conclusions based on misinformation and misunderstanding. The purpose of this statement by Harris County Children's Protective Services is simply to add our perspective to his testimony.

Children's Protective Services is the agency charged with responsibility for protection of children. The authority for action is derived from civil law. Criminal prosecution of the perpetrator is not within the purview of Children's Protective Services but lies solely with law enforcement and the criminal courts.

The Texas Family Code, Chapter 34, Section 34.02 stipulates that reports of suspected child abuse or neglect "shall be made to any local or state law enforcement agency, and in addition shall be made to:

(1) the Texas Department of Human Services"

Within the same section, paragraph (c) is the following statement:

"All reports received by any local or state law enforcement agency shall be referred to the Texas Department of Human Services or to the agency designated by the court to be responsible for the protection of children. The department or designated agency immediately shall notify the appropriate state or local law enforcement agency of any report it receives, other than from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect".

Harris County Children's Protective Services reports allegations of child abuse according to definitions stated in Section 34.02 of the Family Law Code to law enforcement authorities as they are received. To further expedite the cooperation between Harris County Children's Protective Services and law enforcement, in November, 1987 we installed FAX machines to facilitate transmittal. This practice provides law enforcement with the unfettered opportunity to conduct independent investigations related to the reports. Based upon their own investigation, law enforcement authorities may refer the case to the district attorney's office for prosecution. The DA's office may pursue criminal prosecution based on evidence and facts presented by law enforcement.

PROTECTING DEPENDENT, NEGLECTED, AND ABUSED CHILDREN OF HARRIS COUNTY

HARRIS COUNTY COMMISSIONERS COURT CWLA TEXAS DEPARTMENT OF HUMAN SERVICES

At the same time Harris County Children's Protective Services proceeds through the civil courts. If the child must be removed from his home for his protection, it is done with a court order. Court hearings are scheduled within a specific time frame as established by law. Parents are encouraged to obtain legal counsel and in some instances a court appointed attorney is assigned. An attorney ad-litem is always appointed to represent the child's best interest. Every six months a review of the child's status and plans for the future is held. Parents, attorneys, foster parents, as well as caseworkers, have the opportunity to appear at this court hearing.

Mr. Burton has misinterpreted the letter and the intent of P.L. 96-272 as perceived by Harris County Children's Protective Services. We concur with the many experts in the field of child abuse who believe that family preservation is the treatment of choice. The psychological damage to a child who is removed from his home is far reaching. However, we also believe removal must be done in life-threatening situations where there is risk of physical harm to the child. We know of no "financial incentives for rehabilitation of the perpetrator and preservation of the family unit". There is emphasis on family treatment and regular review of case plans so that children do not linger in foster care without a goal toward a permanent situation. A permanent plan may mean adoption, placement with a relative, or return to family. Preservation of the family is not an all or nothing philosophy. PL 96-272 encourages planning and activity toward the least restrictive placement so that children do not become lost in a temporary living situation.

Harris County Children's Protective Services has taken several steps to broaden the level of understanding in regard to conflicts between the criminal justice system and CPS as governed by civil law. Meetings have been held with the district attorneys and with district judges. Efforts have been made to accommodate requests of the criminal system without contempt of civil orders. We support additional staffing within the law enforcement agencies which would more efficiently respond when intervention is necessary.

The death of even one child as a result of abuse is tragic. It must be the goal of every community through education, working with families before the situation becomes critical, and a variety of outreach and prevention programs to eliminate such horror. To blame one agency for all child deaths is counter-productive and expends energy that could otherwise be used to prevent further deaths. The community must work together creatively and positively to create an atmosphere where child abuse is not tolerated.

Sincerely,

George Ford

George Ford
Executive Director

Gene Daniel
Regional Director

GF/GD:jp

TESTIMONY OF

C. PATRICK BABCOCK

DIRECTOR OF THE

MICHIGAN DEPARTMENT OF SOCIAL SERVICES

INTRODUCTION

In 1980, P.L. 96-272, the Adoption Assistance and Child Welfare Act of 1980, was passed to address the pervasive pattern of "foster care drift," or the unplanned use of foster care. Two key areas of reform were identified. Implementation of prevention services to avoid unnecessary removals of children and more decisive and timely actions to secure permanent homes for children when removal was necessary were called for.

The central principle underlying the nation's child welfare effort in 1980 was that every child was entitled to grow up with a permanent family. Family preservation, in other words, was established in our national policy as the strategy of first resort among possible approaches to ensure that children have a supportive environment in which to grow up.

The arguments and evidence for this national policy commitment are compelling. Children who grow up with their own families have better prospects than children in placements to realize the emotional entitlement of childhood, as well as their full potential as adults. They are less likely to have their lives diminished by low self-esteem, school failure, drug abuse, mental illness, delinquency, and reduced capacity for self-sufficiency as adults.

But, effective family preservation is not only in the best interest of children; it is also essential for the welfare of our society as a whole. The functioning family is the basic unit through which we achieve and maintain social stability. It is the context and vehicle providing succeeding generations with the personal and social values required to maintain a democratic system.

Given this, efforts to help troubled families better meet the needs of their children would be an appropriate social investment at any price. But, it is also an investment that pays practical dividends in a more concrete sense. Evaluation studies and cost analyses indicate that expenditures for carefully targeted and effective family preservation programs are more than repaid by reductions in the public costs associated with unnecssary placements of children in foster, group, or institutional care.

In the years since 1980, a combination of new federal resources, improved procedures for making and reviewing placement decisions, intensified family reunification efforts, and the emergence of effective family preservation programs have all contributed to a significant reduction in "foster care drift." Despite this impressive national progress, however, it is also fair to conclude that the pace and achievement in the movement away from unnecessary placements have not been uniform across the country.

In some states and in many communities, the failure to enforce the spirit of procedural reforms or to invest sufficiently in prevention or reunification programs has resulted in little, if any, real decline in historically high rates of child placement. In other places, the progress of the early 1980's in reducing out-of-home placement appears to be eroding, with an actually increasing number of children now entering foster or group care.

Even more disturbing is some overall evidence of a recent decline in the capacity of states and communities to expand or even maintain effective efforts to prevent placement, preserve family functioning, or promote reunification.

In noting these issues, we do not mean to suggest that current utilization rates of foster and institutional care remain always and everywhere too high. Frankly, we do not know what the optimal appropriate level is, nor are we aware of anyone else who does. What we do presume, however, is that in many communities there are at-risk and troubled families who are not getting the timely and intensive assistance that could and, in many instances, would allow them to stay together as a safe and supportive home for their children.

Accordingly, we believe that efforts to initiate, maintain, and expand effective family preservation services are worthy of support as an important child welfare policy priority.

FAMILY AND CHILDREN'S SERVICES IN MICHIGAN

Historically, Michigan has been acutely aware of and extremely sensitive to the needs of children and families. This historical awareness has resulted in Michigan consistently being a national leader in the quality and breadth of its services. Over the years, each branch of government has worked cooperatively with each other and with private agencies and organizations in supporting and implementing procedures and programs designed to improve the delivery of services to children and families.

Local examples of effective procedures and quality programs exist in all service areas through the state. Notwithstanding our achievements, there is still a need to increase the effectiveness of existing procedures and upgrade the quality of existing services.

Too often, because of geographical location, services are unavailable; too often, services which are culturally or racially appropriate, are unavailable; too often, because of insufficient resources, services cannot be provided; too often, because of a propensity toward out-of-home placement, services are not directed toward counseling, treating, and reunifying children and their families; and, too often, because of fragmentation and duplication in the delivery system, services never reach their targeted populations. Too often, because of a categorical financing system, and a penchant for providing funds to persons "labeled" for "mislabeled" as having certain needs, existing services are only available to selected groups, even though similarly situated individuals in the same community have the same needs.

The executive, legislative, and judicial branches of government recognize that improvements must be made in the provision of services to children and families with social, emotional, educational, economic, and health needs. Too many children and families with problems go wanting because of gaps and fragmentation in the provision of services, and too many children and families with problems "fall through the cracks" because of unnecessary procedures or restrictive eligibility requirements.

Government also recognizes that greater efficiencies must be developed in the provision of current services. The service system must be capable of responding to the present and future needs of children and families within the context of their needs. Therefore, creative solutions must be found to deal with these issues and potential concerns.

Issues such as these are personalized through the following case and situational examples:

> "We have 20 separate government contracts, with seven different human services systems, to provide children's services. Each contract is negotiated annually, written up in substantial detail annually, and audited annually; 20 different government representatives regularly phone us, write us, and do site visits. We, in turn, regularly send 20 different program reports, 20 financial reports, and various supplemental reports to 20 different government offices."
>
> "We had a pregnant 16 year old without a suitable home, her mother is on crack, who comes to our Teen Parent Center and she will not seek prenatal care. She knows from her friends that she will get 'turned in' as a status offender, placed in a home, and her baby, when it arrives, will be taken away."
> "A withdrawn, emotionally disturbed adolescent on our Out-Patient Program requires residential placement. The mental health system requires voluntary placement and the client refused that. The court won't place the youngster because she is not a delinquent. The Michigan Department of Social Services would not get involved because there is no abuse/no neglect."
>
> ". . . a male 15 year old substance abuser who attempted suicide came to our Central Screening Program. We provided temporary housing and for two weeks tried to place him in a substance abuse inpatient or residential facility. Both public and private hospitals and community based residences all turned him down because he had no insurance. Roughly 80 phone calls to the toll-free, drug abuse line shown on TV got only a busy signal."

These examples were taken from testimony at two hearings held by the Michigan Human Services Cabinet Task Force on Youth Services in Lansing and Detroit on May 1 and May 8, 1987. Thirty-four presenters at these hearings spoke of the pressure on agencies to carry out their responsibilities in the face of scarce resources; to help children and families confronting problems of hunger, malnutrition, inadequate pre and postnatal care, poor educational and housing opportunities, and language differences, as well as serious behavioral, emotional, and physical difficulties. We must find the ways and means to resolve these different problems, and do so in a manner which builds upon, but does not disrupt, the level and caliber of current services.

Our society is ever changing. The problems faced now will be different in nature, scope, and intensity in the future. Examples of these changes include:

- High infant mortality and morbidity rates (especially among minority children).
- High numbers of children and families living in poverty.
- Increasing numbers of children living in single-parent homes.
- High numbers of teen pregnancies and teen parents.
- Increasing incidence of physical, emotional, and sexual abuse.
- Increasing numbers of neglected and throwaway children.
- Increasing rates of alcohol and substance abuse among children and their parents with the resultant increase in the number of infants born with AIDS, with fatal alcohol syndrome, and with drug addiction.
- Increasing dropout rates, especially in large metropolitan areas and among minority students.
- High joblessness rates among teenagers and young adults, especially Blacks and other minorities.
- Increasing need for child care which is both affordable and of high quality.
- High numbers of children in out-of-home placements who could be better served in their own homes; e.g., dual diagnosis, handicapped, technologically dependent, and child abuse and neglect victims.
- Increasing rates of violent crimes by children, particularly against other children.
- High numbers of children living in poverty.
- Increasing number of children, especially minority children, under government supervision for reasons of delinquency, abuse/neglect, or adoption.

There are broader societal changes, as well. Over one-quarter of all families are headed by single parents. One of every two marriages ends in divorce. Mothers of 55% of all children are now employed. By 1990, almost 80% of Michigan's 9.4 million people will live in metropolitan areas. Thirty percent of our population will be children.

As noted above, the types of children and families served in the child welfare system are exhibiting increasingly complex problems. These problems have had a direct impact on our child welfare programs.

- The number of children's protective services referrals investigated has increased from 34,688 in FY 1980-81 to 49,392 in FY 1986-87.
- The number of victims of sexual abuse has increased from 1,720 in FY 1980-81 to 4,025 in FY 1985-86, and then dropped for the first time in years to 3,457 in FY 1986-87.
- The number of children's protective services referrals grew 42.4% between FY 1980-81 and FY 1986-87. The number of children's protective services workers grew by 10.2% from October, 1981, to October, 1987.

There has been a significant increase in the number of active foster care cases between 1981 and 1987.

- The number of active foster care cases has increased from 11,212 in October through December, 1981, to 15,134 in January through March, 1987, or 35%.
- The average time cases have remained under department supervision has fluctuated slightly between 1981 and 1988 but has continued to be approximately 28 months.

- The number of children placed in their own homes, with a relative or with a legal guardian as a percentage of the total foster care population has increased from 34% in October, 1981, to 36% in January, 1988.
- Total number of children placed in their own home, with a relative, or with a legal guardian has increased from 3,791 in October, 1981, to 5,378 in January, 1988.
- The number of white children in active foster care has increased from 5,476 in October through December, 1981, to 6,676 in January through March, 1988, or 22%.
- The number of Black children in active foster care has increased from 5,252 in October through December, 1981, to 7,989 in January through March, 1988, or 52%.
- Increases in Black children in foster care accounted for 70% of the increased foster care population during this period. Fifty-three percent of this program is now directed toward Black children.
- The number of foster care workers has not kept pace with the caseload increases. The number of workers increased from 318 in October, 1981, to 403 in January, 1988. A 27% increase, compared to a 35% increase in caseload.
- There has been a statistically significant increase in the average number of placement moves per child while in the department's care. The average number of placements used for foster care children has increased slowly but steadily over the past six years. The placement average was 2.0 placements per child in October, 1981; and 2.6 per child in January, 1988

GUIDING PRINCIPLES FOR A CHILD AND FAMILY SYSTEM OF CARE

Before any recommendations can be formulated, the philosophical, political, and practice assumptions which underlie them need to be identified. These assumptions are specified in the following set of five guiding principles:

1. The primary goal of services to children should be to strengthen family life. Accordingly, services should be delivered in the context of the child's family whenever consistent with the well-being of the child.
2. The system of care comprising these minimum services should be directed toward permanency for children, with the needs of the child and family determining the types and mix of services provided.
3. The service delivery system should provide for direct consumer involvement in the development of policies and programs, and should be based upon individualized service plans designed to meet the particular needs and potential of children and other families.
4. A child's, parent's, and family's right to treatment within the least restrictive, most normal environment that is appropriate should be specified in law.
5. Policy should define and support a minimum core of community-based services to be made available to all children and families, on both a voluntary and an involuntary basis, which promotes primary prevention and defines early detection and intervention in problem situations.
6. The Child Welfare Funding system should be structured to provide a continuum of care.

MICHIGAN PROGRAM INITIATIVES

Child abuse and neglect are too costly in terms of lives, spirit, resources, and money for us to remain reactive to the problem. Valid approaches to help families which are proactive, that is, prevent the abuse and neglect from initially occurring or reoccurring, are needed.

The child welfare system must begin to focus on the family rather than the child. Home-based services provided for the total family will positively effect individual family members and reduce unnecessary placements. Money saved from fewer foster care placements can then be recycled into additional efforts to preserve and reunify families.

In accord with P.L. 96-272, we need to:

- Prevent unnecessary and inappropriate placements of children in foster homes and institutional care.
- Prevent children from being kept in substitute care longer than necessary.
- Prevent out-of-home placements unless reasonable services efforts to preserve the family were made prior to resorting to placement.

Michigan recognizes the need for a major change in the way we have traditionally approached children's services. Currently, the protective services workers and foster care workers are so understaffed and overwhelmed by increasing numbers of referrals that they are unable to provide the intensive services required to keep children in their own homes or to reunite children with their families in a timely manner.

The Michigan Department of Social Services has endeavored to focus more attention on efforts to prevent child abuse and neglect, to prevent unnecessary placements of children, and to more fully address permanence issues for children and youth already in out-of-home care. These initiatives cross the fields of mental health and social services; they are public and private; they are funded by the full range of federal, state, and private sources. Some of these efforts include:

Prevention Program

The Preventive Services for Families Program is a home-based, family-focused program designed to prevent child abuse and neglect by preserving and strengthening family life. The program was implemented statewide in June of 1981 based on a three-year demonstration pilot in nine counties.

Families that have been identified as "high risk" because they have been determined to be dysfunctional in areas associated with child abuse, neglect, or exploitation are eligible for preventive services.

The program, however, has been greatly understaffed and currently provides services at about 10% of need.

Children's Protective Services Program Redesign

From September 15 through 17, 1986, the National Child Welfare Affiliate of the American Public Welfare Association (National Association of Public Child Welfare Administrators (NAPCWA) held a symposium focusing on the changing character of protective services across the country, attempting to forge a national direction to refocus children's protective services and resolve the crisis of expectations experienced by workers across the country. The Michigan Department of Social Services decided to put Michigan in the forefront of this national movement by launching an extensive review of children's protective services policy and practice in Michigan.

The focus of the NAPCWA and Michigan initiatives has been to examine what we have learned in the 12 years since we have had mandatory reporting of suspected child abuse and neglect to state agencies to determine whether or not more consistent criteria for reporting, investigation, and substantiation could now be developed. Of major concern was the inconsistency of practice and the high unsubstantiation rate (67% in Michigan) in the face of rapidly escalating referral rates which, when combined, create intense professional jeopardy for workers, potential risk for children, and bad will from mandatory reports and parent(s) found not to have abused/neglected their child(ren).

A steering committee was established to develop a process for redefining and redesigning the Children's Protective Services Program. The Children's Protective Services Task Force has completed their analysis and will submit their final recommendations for executive review in May, 1988.

Family Preservation Program

In order to reduce Michigan's reliance on out-of-home care, the Michigan Department of Social Services requested legislative authority to use state funds appropriated for foster care payments to serve children in their own homes. Legislative approval for FY 1988 has been granted.

The Family Preservation Program is being implemented in the 18 local counties with the highest percentage of out-of-home placements. The program is designed to provide intensive home-based, family-oriented services, hard and soft services, and services which assist connecting the family with other community agencies and volunteers who would provide ongoing assistance through purchase of services. The key element of the program is the FAMILYFOCUS program. The FAMILYFOCUS program is based on the Home Builders' model for intensive home-based services. This model began in Washington State and has been adopted successfully by other states.

Permanency Planning for Minorities

An overall plan has been developed to expand Michigan's ability to provide permanency to minority children in care and to recruit additional minority adoptive and foster care families. Initiatives undertaken include:

- A statewide conference in February, 1986, to identify barriers to the effective recruitment and retention of minority families and to develop a statewide strategy for improvement for need.
- Administrative consultation from other states with successful programs has been initiated. New recruitment materials have been developed as a result.
- Departmental efforts have been integrated and coordinated with the Michigan Foster Parent and Adoptive Parent Association. A contract with this association was negotiated to assist in the recruitment, orientation, and retention of foster parents in Michigan.
- One Church, One Child Program (OCOC): This program represents a partnership between the department and Black churches. The major focus is on the recruitment of Black foster families who are willing to work not only with foster children but also with the birth families to establish permanency for the children.

  One Church, One Child owes its successes, as demonstrated in other states, in large part to its usage of a natural resource in the Black community - Black churches. By drawing on the support of local pastors, the program has immediate access to a large pool of potential foster parents in the congregations of the churches.
- American Indian children, like Black children, are removed at a disproportionate rate. To counteract this, the department has developed child welfare policy which not only meets the requirements of P.L. 95-608, the Indian Child Welfare Act, but goes beyond that. Policy has been written to ensure that all American Indian children, irrespective of tribal affiliation, are covered under Indian Child Welfare policy.

  Additionally, the department purchases case work services from the Michigan Indian Child Welfare Agency for all American Indian children to ensure culturally relevant services and American Indian family preservation.

  Finally, cultural, sensitivity training has been initiated for all child welfare staff.

State-Level Initiatives

Governor James J. Blanchard, in his 1987 State-of-the State Message, directed that the Human Services Cabinet review the current organization of children's services, receive public comment, and provide his office with recommendations for action.

A task force was appointed in the spring of 1987 and its efforts have resulted in one of the most comprehensive reviews of child and family services in Michigan completed within the past ten years.

The task force found consistent evidence of the commitment of state and local governments, courts, and private providers to the provision of effective and efficient services to Michigan children and families. Exceptional services exist in selected areas throughout the state. However, a true community-based family support service system does not presently exist in Michigan. The task force found major gaps in services, inequities in the distribution of funds and programs, serious fragmentation in selected service areas, complex/inflexible funding, limited local control, and inconsistencies between stated policies and actual use of funds.

Among the most serious problems facing Michigan children and families in need of services are the following:

- While our stated policies and interests are based on treatment availability, family supports, family preservation, permanency for children, and the prevention of abuse, neglect, and delinquency, the bulk of the state's money in key areas is inflexibly tied to out-of-home care. We want to strengthen families, but our money is spent on keeping them divided.

- Decisions regarding services to be provided may have less to do with the child's or family's needs than they do with issues such as: which organization the family contacts first to seek help, how much money the family has, who's to pay for the service, what organization will control case actions, and how will the family be labeled. Artificial labels and arguments about who's in charge and who pays determine service delivery to an unfortunate degree.

- Complete federal, state, and local community mechanisms for planning, coordination, control, and delivery do not now exist.

The Michigan Human Services Cabinet Task Force developed specific recommendations to ameliorate the above system deficiencies. These recommendations focus on the establishment of an independent, cabinet-level agency, the Michigan Center for Children and Families, with responsibility for:

- Consolidation of the fragmented system of services to delinquents, abused and neglected children, and emotionally disturbed children.

- Development of a service delivery system tied to a community planning process.

- Establishment of a highly-visible, single point of service accountability at both state and local levels of government with a common intake point for local services and a coordinated, comprehensive effort in each community appropriate to local needs, interests, and problems.

- Restructuring of the child and family services funding system and a redirection of funds now used to serve children who have been separated from their families toward expanded efforts to support and strengthen the family unit, through prevention, in-home support, family reunification, and permanency planning for all children.

- Insuring statewide equity in the distribution of resources, the provision of a recipient rights system, and the availability of a minimum core of services.

One of the most critical elements of these recommendations is the reordering of the child and family services funding systems. As emphasized throughout this testimony, we need to base our funding systems on families' needs and on a continuum of care -- not on program categorical eligibility.

Michigan has been awarded a grant from the Edna McConnell Clark Foundation. The grant represents a unified effort by all executive branch human services agencies in Michigan to jointly develop a plan for reordering and maximizing federal and state resources for strengthening and preserving families. The project will assess ways to maximize existing state and federal resources, ways to provide incentives for family-based programs, and will provide a stable plan to mainstream comprehensive, coordinated services to families and children. Elizabeth Cole, from Cole and Associates, and Tom Joe, from the Center for the Study of Social Policy, will be two primary consultants for the project.

SUMMARY

Michigan has undergone extensive efforts at the state level to analyze what type of systematic changes are needed to alter the child welfare system to effectively achieve program goals. This same type of effort is needed at the federal level.

- The major sources of federal funds, including the Social Services Block Grant, Titles IV-B and IV-E of the Social Security Act, the Child Abuse Challenge Grant program, and the Child Abuse Prevention and Treatment Act must be restructured. The thrust of such an undertaking must be to develop a comprehensive package which clearly articulates program goals and which bases funding on achievement of those goals.

- Prevention and family preservation must not only be mandated, they must be supported through the funding system. When P.L. 96-272 was passed in 1980, its requirements to achieve permanency and implement prevention activities were based on an anticipated full-funding level by 1983. We have never come close to that. P.L. 96-272 also called for annual increases of $100 million in Social Services Block Grant funds. An anticipated funding level of $3.3 billion was projected for 1985. In 1988, the funding level was $2.7 billion. We want to strengthen families but our money is spent keeping them divided. Incentives for provision of family-based services should be built into the funding system.

- Any restructuring of programs and funding sources must address the problems with categorization, labeling, and the lack of consistency between service provision guidelines and families' needs. The gaps and fragmentation problems must be corrected.

- Legal entitlements to service, including the right to treatment, should be established in statute. A mechanism for provision of an external advocacy system to advocate for children and families to ensure legal guarantees are in fact available should be mandated and funded. A system similar to the Protection and Advocacy System in the mental health arena is needed.

In summary, family preservation must not be limited to rhetorics; we must ensure that permanency planning is in fact an important national child welfare policy priority.

Written Testimony of Sandra S. Gardebring, Commissioner
Minnesota Department of Human Services
Regarding
The Adoption Assistance and
Child Welfare Act of 1980 (P.L. 96-272)

Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, has produced dramatically positive results in the state of Minnesota. Emphasis in placement prevention and family reunification has reduced the number and length of out-of-home placements in the same years that child protection cases have risen. We enthusiastically encourage continued congressional support for this legislation as well as its expansion in certain key areas. This analysis of the act includes an overview of the general impact of P.L. 96-272 on the children and families in Minnesota as well as placement prevention and administrative issues and recommendations.

Overview

In Minnesota, permanency planning initiatives have both preceded and paralleled efforts at the national level to develop placement prevention and family reunification services to maintain family integrity. These initiatives have been both legislative and programmatic. Minnesota county social services agencies, private social service agencies and the Department of Human Services have developed programs, policy, rules, standards and statewide coalitions to provide permanency planning services to children and families. County and state efforts have addressed a variety of program areas on the continuum of permanency planning services from placement prevention to adoption services.

In 1985, Minnesota built on the momentum created by the federal law and passed the Minnesota Statutes Chapter 256F Permanency Planning Grants to Counties Act, which created as public policy the concept "that all children are entitled to live in families that offer a safe, permanent relationship with nurturing parents or caretakers and have the opportunity to establish lifetime relationships." The Act, which requires that all county social services agencies have preplacement screening procedures, redirects state and federal foster care funds to preventive services by removing state participation from payment for foster care placements. Instead state and Federal Title IV-B monies are made available for grants to county social services agencies to provide services directed at diversion, reunification, adoption, or permanent foster care (for state wards over 14 who decline adoption.) The services suggested in 45 CFR 1357.15(e)(2) Child Welfare Services provided under Title IV-B have provided the framework for preventive services under the Permanency Planning Grants to Counties Act. It is expected that the effective implementation of these programs will further ensure that out-of-home placements are appropriate and that children in placement have clearly articulated goals and case plans.

In the years since the passage of P.L. 96-272, the number of children in foster care statewide has dropped 23% between 1979 and 1986 at the same time that the number of child maltreatment reports for the period has increased 73%. (The increase may be partly explained by improved reporting standards). One county in central Minnesota has reduced the number of children in care by 52%, the number of days in care by 45% and the costs of care by 30 % during the period. However, the proportion of minority children in placement increased from 19% in 1983 to 21% in 1986. The minority child population is estimated at 5.6%. The number of minority children in substitute care is approximately four times their representation in the State's population, and this is of serious concern to the State. In 1984, 83% of all adoptions were of white children and 17% were of minority children. In 1986, 92% of adoptions were white children and 8% were of minority children. At year's end, children who were awaiting adoptive placement were 72% white and 28% minority.

Placement Prevention Services

In the area of preventive services, Minnesota has proven that it is possible to prevent removal of children from their homes; to reunite children in substitute care placement with their families; and, for special needs children who cannot be returned to their birth parents, to find permanent adoptive families. During calendar year 1986, the eighty-seven local social services agencies in Minnesota, through the provision of family based services, were able to prevent the removal and placement of 17,354 Caucasian and 7,700 minority children. An additional 4,686 Caucasian and 1,297 minority children who were in placement were successfully reunified with their families. The provision of professional and paraprofessional family-based services made this possible. The costs of family-based services for 1986 totaled $7.7 million. In addition the use of respite care, at an annual cost of $375,126, assisted another 1,291 families to keep their child at home rather than in a substitute care placement.

Since 1979, the average length of stay in an out-of-home placement in Minnesota has dropped from 54 months to less than 12 months. This is due in part to the mandates in P.L. 96-272, the Minnesota Permanency Planning Grants to Counties Act; and the support and expansion of family based services programs. Costs of substitute care continue to rise and many children will continue to need substitute care for varying lengths of time, but the thrust of public policy and goals in Minnesota is the preservation of the family.

We also view Independent Living Skills for adolescents in Foster Care as preventive--preventive of reliance on public programs as youths "graduate" from foster care. In Minnesota, 32% of children in foster care are ages 16 to 19, 25% are ages 16 or 17, an overwhelming number of children with little time in which to make a positive impact by placement in a positive family environment. Further, when we remove children from their families, and recognize that they will not return to the family or be adopted, we must recognize our responsibility to prepare them for adult life and responsibilities.

Although funding for the IV-E-IL program was delayed, the need was so strong that state and county agencies implemented programs almost immediately. County social workers are enthusiastic in their support of this program. Social workers have identified the need for life skills training for quite some time. Providing funds to allow them to carry out life skills training has reinforced the relationship between the state and county. Social workers see the funds as recognition of their professional judgment of what a youth will need as (s)he prepares for adult life.

The response has been overwhelming, as can be seen in the following quote from a county quarterly progress report:

> "It is clear that the Support for Emancipation and Living Functionally (SELF) program addresses a need that has been prevalent for a considerable length of time. Independent living skills are often ignored in both functional and dysfunctional homes. Although children should be "allowed to be children," realistic accountability and productive use of time must be taught as well. This needs to be emphasized before the age of 18."

The Title IV-E-IL program is highly cost effective. When weighed against the financial alternatives for supporting many of these clients once they leave foster care ill-prepared for adult life, investment in like skills training is a minimal investment with a high profit.

These funds help break the cycle of long term dependence on public assistance. The "empowerment" money spent per child in Minnesota equates to less than nine months of public assistance. If the calculations of public assistance also include costs of emergency shelter beds and court services, SELF funds equate to approximately five months of public assistance and community services.

In Minnesota we have successfully used our Title IV-E state allocation to:

- finance college entrance exams and vocational school application fees for children who would have no other access to those programs.
- pay for wages for gaining work experience
- develop programs on life skills including budgeting, locating and maintaining housing, and health maintenance
- fund innovative projects, including foster parent training, wilderness camping experience and summer jobs program.

Placement Prevention Recommendations

The "ounce of prevention" adage is nowhere more true than in substitute care, where placement costs may exceed $100 per day for children in care, and unknown costs for dysfunctional adults.

Preventive services are cost effective and a humane approach to keeping families intact. We recommend:

- funding for preventive services, especially family-based services, be expanded under the law, consistent with the Grant Appeals Board Decision No. 844 in which the Board found that Title IV-E required and authorized reimbursement for preplacement activities for all children who are candidates for the program regardless of whether they are actually placed in foster care. We also recommend that Health and Human Services policy reflect the intent of the Grant Appeals Board decision. Under current policy (ACYF-87-05) reimbursement is available to a small number of children for restricted preplacement costs.

funding for culturally sensitive prevention and reunification services with an emphasis on service delivery by like race or minority providers for minority families who are at risk of child placement.

- continued funding of the IV-E-IL program for all children in foster care.

- Independent Living Skills funding and training for all youth, not only IV-E eligible youth in foster care. As foster care children, they face such restrictions as inability to get drivers licenses or to leave the county. Children who cannot be reunited with their families are without the usual supports available to children from intact families. Things that are ordinarily taken for granted when they move out of their homes, such as being given recycled furniture and kitchenware, help with fixing things, doing laundry, and taking home leftovers after a family dinner are not available to these children.

Administrative Issues

The case planning, case review and procedural safeguards mandates in the law have proven to be good child welfare practice and policy. Those mandates in combination with the fiscal incentives encouraged Minnesota to reframe the problem, refocus our efforts and reallocate our resources.

ISSUE 1: TERMINATION OF PARENTAL RIGHTS

The most problematic compliance issue is section 475(5)(B) which requires the "projection of a likely date by which (a) child may be returned home or placed for adoption." Many children, especially adolescents cannot be reunited with their families. In order for them to be free for adoption, the parents rights to the child must be terminated, an act which courts are often reluctant to perform. The age of the child must be taken into account when contemplating termination of parental rights. Over 30% of children in care are age 16 or older. Termination of parental rights and adoption for these children is problematic at best, and may not be in their best interest. The court may sever legal rights, but the psychological ties of older adolescents and their families are unlikely to be broken by legal action. The termination of parental rights forces the courts to decide between the best interests of the child and the rights of the parents. In a landmark case the Supreme Court of the State of Minnesota upheld a local court termination of parental rights based on P.L. 96-272 and the Minnesota Permanency Planning Grants to Counties Act.

In its July 11, 1986 decision, (In the Matter of the Welfare of J.J.B., a minor child 390 N.W. 2nd 274 [Minn. 1986]) the court stated that: "Abuse and neglect, however, all too often compel courts to intervene in the parent-child relationship and decide where and in what circumstances children will live. Even in those cases in which intentional abuse or neglect has been demonstrated, courts proceed with great care and deliberation in the termination of parental rights...one of the major philosophical concepts of the Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C. 620-25, 627-28, 670-76 (1982) is that, if a child can be safely protected in his or her own home through the provision of services or other assistance to the child's family, that alternative is preferable to foster care placement....This "best interests of the child" standard, viewed by the legislature as critical to the trial courts's placement disposition, has only recently emerged as a compelling factor in the parental rights termination proceedings...We adopt the best interest of the child standard as a paramount consideration in termination of parental rights proceedings. (Emphasis added.) We have previously observed the importance of emotional and psychological stability to a child's sense of security, happiness and adaptation, as well as the degree of unanimity among child psychologists regarding the fundamental significance of permanency to a child's development...We therefore conclude that where, as here, the record demonstrates a long-term placement characterized by a repeated failure to reasonable efforts to reunite the family, the trial court should appropriately determine what action most readily promotes the best interests of the child. While judicial caution in severing the family bonds is imperative, untoward delay of the demonstrated inevitable is intolerable." (Emphasis added.)

On April 14, 1988, the Minnesota Legislature enacted a new statute which clarifies and strengthens Minnesota Statutes 260.221, the Termination of Parental Rights law and states that "where the interests of parent and child conflict, the interests of the child are paramount."

RECOMMENDATIONS:

- Guidance to the courts in the area of Termination of Parental Rights so that where appropriate, those actions may be taken swiftly so that children do not remain for years in legal limbo.

- Study and consideration of alternative such as permanent foster care for children who cannot be reunited or freed for adoption.

ISSUE 2: DEFINITION OF REASONABLE EFFORTS

The lack of federal definition of reasonable efforts combined with the lack of Justice Department involvement in providing guidelines for the courts has caused problems in compliance with the requirements of the law. State and county social services agencies are programmatically and fiscally held responsible for actions which must be performed by the courts without the authority to influence the courts.

RECOMMENDATIONS:

- Definition of and guidelines for reasonable efforts so that social services agencies and courts may meet the requirements.

- Involvement of the Justice Department in establishing guidelines for the courts so that the courts meet the requirements of the law.

ISSUE 3: IV-E ELIGIBILITY

In the area of IV-E eligibility, under current policy when a child is receiving a IV-E adoption subsidy and the adoption is disrupted, resulting in foster care placement, the child's IV-E foster care eligibility is based on the income and resources of the adoptive family. Most often, this family is not AFDC eligible and the child is therefore not eligible for IV-E foster care reimbursement. Since children receiving subsidy have special needs, the adoption is at increased risk of disruption. When adoptive families and social services agencies take the risk of adoption both are fiscally punished if the adoption disrupted and placement is required.

RECOMMENDATIONS:

- Maintenance of IV-E foster care eligibility for children receiving IV-E adoption assistance should foster care be required.

ISSUE 4: ADMINISTRATIVE REVIEW PANELS

Minnesota has implemented and compared a number of models utilizing citizen volunteers in administrative reviews. In 1986 Minnesota conducted a pilot project to compare two models of citizen participation in the administrative review process. One model consisted of volunteer citizens only, the other combined citizens and agency staff.

The combination of citizen volunteers and agency staff produced the most favorable outcomes in terms of identification of barriers to permanency and favorable comments by agency staff, citizens, families, child and foster parents. Citizens opened the system to the community by providing a fresh perspective and advocating for children's needs. We have reviewed the practices of a number of states who have established separate agencies to perform administrative reviews, and have concluded that our informal model is cost effective.

RECOMMENDATIONS:

- We support the use of the independent person on administrative review panels, but do not recommend spending scarce social service dollars on an administrative effort at the expense of providing direct services to families.

ISSUE 5: PAYMENT OF CLAIMS:

The cash flow problems to the state as a result of delays in federal reimbursement for Title IV-E are causing difficulties in maintaining the programs. Grant awards are consistently late, we have not received full reimbursement for maintenance or administration since 1985. The outstanding grants awards for 1985 to 1987 is $1,654,209 for maintenance payments and $5,715,723 for administration and training costs.

RECOMMENDATIONS:

- Prompt payment of Title IV-E maintenance and administrative claims.

In addition to the above recommendations, we support HR-2753: "Child Welfare and Foster Care Amendments of 1987, submitted by Representative Robert Matsui.

- Title II which requires health plans for children in foster care providing that additional funding is provided and that mental health exams be provided where appropriate.

- Title IV which provides training to foster parents reimbursable at the same rate as Title IV-E training.

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April 20, 1988

Ms. Ann Rosewater, Staff Director
Select Committee on Children, Youth and Family
House Annex 2
Room 385
Washington, D.C. 20515

Dear Ms. Rosewater,

Attached please find written testimony to be added to the record of the hearing of the Select Committee on Children, Youth and Families and subcommittee on Public Assistance and Unemployment Compensation of the Committee on Ways and Means.

I hope this testimony amplifies the need for viewing the child in out-of-home placement from a 'systems theory' perspective, and highlights the role of 'Education' as a key member of the system.

Thank you.

Sincerely,

Rich Clarke

Rich Clarke
Guidance Consultant
Mt. Diablo Unified School District
Contra Costa County
Concord, California

RC:fjm

Attachment

'EDUCATION' - KEY MEMBER OF OUT-OF-HOME PLACEMENT SYSTEM

As a school psychologist and coordinator of an educational support program for children in out-of-home placement, I am glad to have an opportunity to comment in writing on the importance of recognizing 'Education' as a crucial player in the network of institutions making up the 'system' responsible for the out-of-home placed child. For 15 years my program, the Foster Youth Services Program, in the Mt. Diablo Unified School District, Concord, California, has been one of four publically funded school based Foster Youth Services in California. A part of my Program's work has included liaison services between the various subsystems that support and impact on these children.

Communicating information to social services, probation, mental health and public health line workers as well as foster and group home parents about the ongoing lives of these children, has given us a unique perspective with regard to the 'afterthought' status 'success in school' relieves in the case decision making of children in out-of-home placement. Our frequent contact with these children, and their institutional caretakers, makes us privey to the ebb and flow of their lives. Often we become the only ongoing professional they have sustained contact with in their various changes of placement, thereby providing a continuity not provided by the other systems.

I am eager to supply you with perspectives on a number of system components and at your request, would gladly do so. In this document I want to call your attention to the status education must receive in supporting a successful out-of-home placement, and ultimately breaking the cycle of dependency.

When a child is removed from home, parenting becomes an institutional charge of the system taking responsibility of the child. The justice, social service, and mental health subsystems are usually identified as comprising the "system" which takes responsibility for the child. With five to seven hours per day spent in school, education also becomes a key player in parenting: influencing the child's self esteem, shaping values towards education and self improvement, and effecting the likelihood of choosing self-sufficiency at emancipation rather than dependency on street economics or general assistance for survival.

The child in out-of-home placement has unique learning characteristics.

Educationally, greater than 50 per cent of children in foster placement are at least one year behind in school. With close to half of the children changing schools every six months, two times the risk of school failure, twice the suspension rate, and greater than three times the rate of placement in alternative education programs, the foster child is at high risk of not succeeding. One study indicated greater than 50 percent never complete high school.

During the years of basic skills acquisition at the elementary level, their mobility factor creates chasms in their education foundations. At the high school level, an already damaged learning self esteem is often hardened by a kind of educational hopelessness engendered by loss of records and credits in move after move after move making graduation unattainable.

Compounding this situation is the eligibility policy of social services cutting off support to an18 year old who does not have enough credits to graduate by his 19th birthday. Lifestyle and survival of the nongraduate is tenuous with no diploma, a real belief in not being able to learn, no financial support and a long severed relationship with family of origin.

The fact that close to one half change placements within six months means traditional educational service models for high school students (changing semesters and class schedules every 18 weeks) need to adjust to avoid contributing to the failure of this high risk population.

Educational support of these students calls for:

1. school district's identification of their students in out-of-home placement,

2. trained personnel who can trace and find records lost in the numerous moves of these students,

3. personnel to successfully advocate for credit from past schools, and facilitate mid-semester transfers so as to minimize significant credit losses,

4. counseling to facilitate ongoing school adjustment,

5. tutorial services to bolster skills and learning self esteem,

6. focused planning and delivery of services designed to increase likelihood of successful emancipation,

7. on going inter-system communication for each child in out-of-home placement and

8. education of the social service, justice, mental health, health and education communities on the unique learning characteristics of children in out-of-home placement.

Few in the out-of-home placement system give priority to the educational problems of the child in placement. It is a rare parent who consciously ignores the learning needs of their own children and denies the payoff to their children of being successful learners. It is time to recognize the role the out-of-home placement system can play in promoting school achievement and dismantling barriers to success.

The payoffs in overcoming these educational barriers and unmet needs for this population, are both short term, and long lasting, while being fiscally sound. Social workers and group home managers have pointed out that stability in school is reflected in stability of placement. Lower placement costs frees up resources for other service needs. In the long run, educationally successful emancipated youth serve as an early intervention and insurance for breaking the cycle of abuse, neglect, and dependency.

For this to happen, funding streams designed for improving the quality of care to children in out-of-home placement must recognize the necessity of promoting models that enhance educational performance and interagency cooperation in the attainment of these goals.

STATEMENT OF THE NATIONAL CENTER FOR YOUTH LAW AND THE YOUTH LAW CENTER

The National Center for Youth Law (NCYL) is a non-profit organization working on behalf of poor children in the United States. NCYL is part of the national system of legal services for the poor. The Youth Law Center (YLC) is a non-profit public interest law office which also works to protect the rights of minors nationwide. Both organizations serve as consultants and resource centers for private attorneys, legal services offices, public interest attorneys, and other advocates for children throughout the country who work on issues relating to the child welfare system. In addition, private individuals call us with questions and problems about the dependency system.

Based on these questions and our experience in trainings and litigation, we have identified the following issues as major problems with the structure or implementation of Pub. L. 96-272 which Congress should address. While some of these issues require modification of the legislation or regulations, many may be addressed by strengthening the oversight function of HHS. The final section of our testimony highlights the litigation brought throughout the country to address systemic problems since the enactment of Pub. L. 96-272.

II. REASONABLE EFFORTS

A. The Problem

Perhaps the least understood and most poorly implemented requirement of Pub. L. 96-272 is the reasonable efforts requirement. Simply stated, the reasonable efforts requirement is the legal tool to insure that child welfare agencies practice family preservation social work. Unless this requirement is properly implemented, child welfare systems will continue to offer families few or no services until a crisis arises where the only solution agencies see is to remove the child from the home. This in turn continues the overload of foster care systems, with inadequate services to families whose children are in care, inadequate support to foster parents, and inadequate efforts to recruit and support potential adoptive parents. As a consequence, the foster care drift which Pub. L. 96-272 was designed to address continues unchecked.

B. The Solution

1. Defining Reasonable Efforts by Regulation

Making reasonable efforts a reality in child welfare systems across the country requires changes on a number of fronts. First, the regulations implementing the requirement must offer guidelines for implementation in individual cases. Current regulations merely list about 20 types of suggested services which states can include in their IV-B plans. This is not adequate.

Both NCYL and YLC have participated in conferences, panel discussions, and model training programs throughout the country that focused, at least in part, on the reasonable efforts requirement. YLC has also done an exhaustive survey of the case law, both class actions and individual cases, that interprets the requirement. It is fair to say that, except for a handful of individual courts and agencies, every jurisdiction in the country is stymied in defining and implementing the reasonable efforts requirement on both a systemic and individual basis. Every day, hundreds of juvenile court judges are making unsupported reasonable efforts findings, holding in almost every case that the child welfare agency has made reasonable efforts. Indeed, it is almost impossible to find a juvenile court judge who makes negative reasonable efforts findings on a regular basis.

In an attempt to fill this void, NCYL and YLC, in conjunction with The National Council of Juvenile and Family Court Judges and the Child Welfare League of America, have written and distributed nationally guidelines for implementing the reasonable efforts requirement. Both NCYL and YLC are also involved in working with individual jurisdictions to make these guidelines a reality. Much of the substance of the guidelines could be incorporated into the federal regulations. A copy of the guidelines is attached.

2. Increased Scrutiny by HHS

HHS must take a much more active role in assessing states' compliance with the reasonable efforts requirement. As stated above, rarely do judges make a negative finding. What HHS sees most often when monitoring case files is either a court order with a box checked stating that reasonable efforts have been made or no mention of the requirement at all. Rarely is any evidence presented as to reasonable efforts.

3. Reasonable Efforts As A Requirement of State Law

The statute should require states to make the reasonable efforts requirement part of their juvenile codes. While over half the states have done this, the remainder have not. This is one of the main reasons that many juvenile court judges around the country have not even heard the term "reasonable efforts".

4. Frontloading Systems by Increasing Funding and Diverting Funding From Other Parts of System

When NCYL and YLC have asked agencies and courts around the country why they cannot implement the reasonable efforts requirement, the most frequent response is that they lack the funding for adequate services for families.

While the federal statute specifically provides for funding for services, in fact, the amount of funding is not adequate and states are not sufficiently encouraged to provide preventive services. At this time, most states have only rudimentary preventive and reunification services available to families. Innovative services, such as intensive in-home services based on the Homebuilders model, are not encouraged and are only available on haphazard basis. The statute needs to be strengthened, both in the sections defining the IV-B program and in the reasonable efforts sections, to ensure that families are provided with services that realistically address their problems.

While lack of funding is a major problem, there are also solutions for expanding service delivery at the front end of the system that do not necessarily require new funding. Fiscal systems experts, such as the Center for the Study of Social Policy in Washington D.C., offer a myriad of ways for moving funds around in a system and tapping new sources. States should be encouraged to take advantage of these resources.

Additionally, several states are experimenting with ways to channel funds for preventive services. In California, for example, the Governor recently signed into law a bill, AB 558, which would allow up to four counties to receive in advance 10% of that county's AFDC-FC funds for preventive services. These preventive services can only be used for those children a juvenile court judge finds to be at immediate risk of placement or those children already in placement who can only be returned home with preventive services. Such an arrangement should have been in effect some time ago and should not now be confined only to a few counties. It is the type of rechannelling of funds that the federal government should consider mandating for states receiving federal funds.

5. Setting Out Visitation Requirements in the Statute

Integrally related to making reasonable efforts to reunify families, are the problems with ensuring adequate visitation both between parents and their children and between siblings. NCYL and YLC have received calls from individuals in many states about the deficiencies in visitation services for families. The statute should more clearly set out the requirements of visitation, and require that the highest priority be given to visitation as a reunification service, and that transportation be provided when necessary to facilitate visits.

Many states now require visitation only once a month, a totally unrealistic schedule if families are to be successfully reunified. A generous schedule for visitation increases the likelihood that the reunified family unit will be a stable one. Equally important, it nourishes the psychological well-being of the children removed from their families under crisis conditions without clearly understanding what has happened or why. In cities with poor public transportation systems, the failure to provide transportation may be a complete barrier to visitation. In San Francisco, for example, over half the children in foster care are placed in homes that are out of the county. We represent children whose parents must travel for 1-1/2 to 2 hours by bus in order to visit with their children for one hour a week. Such a situation deters even the most motivated family.

III. PROBLEMS IN EMERGENCY CARE SYSTEMS

Federal legislation should clearly address the emergency care systems. Many children in state systems are housed for extended periods of times in emergency shelters which may or may not be covered by IV-E provisions. Theoretically, children should remain in emergency shelter for no more than 1-3 weeks. In fact, however, children stay in these emergency care facilities for several months while their cases drag on in court and more permanent placements are located. The federal government must have some control over the quality of care in these emergency placements.

IV. FOSTER CARE SYSTEMS

While Pub. L. 96-272 requires that foster homes meet applicable licensing standards and that child abuse in foster homes be reported, it does not go far enough in ensuring protection of children while they are out of home. Our offices have become painfully aware of many situations in which children's health and lives are in greater jeopardy in foster homes than they were while they were living with their families.

For example, we represented a developmentally disabled child whose growth was effectively retarded for almost eight years while he stayed in an unqualified foster home. We are also aware of situations in which foster homes licensed for five, house up to fifteen children. In some instances, foster children do not attend school because foster parents are too overburdened or undermotivated to get them ready in the morning.

A foster family should not only be expected to keep children alive and well, but to assist in their psychological and cognitive development. This will not be possible unless foster parents are adequately trained and compensated for their work. In many states, little or no training is required and compensation is so low that few competent individuals are interested in applying. In this country, we are no longer in a situation in which many women are at home and able to care for foster children. Instead, foster care must be regarded as a form of employment which has minimum requirements and which is adequately compensated. Federal standards could go far to ensuring the protection of children in this situation.

Finally, although Pub. L. 96-272 does mandate a central data bank and a computerized recordkeeping system for all children in care, it does not require enough documentation to permit programs' efficacy to be evaluated. For example, many social services departments claim that they are experiencing an increase in both the number and severity of child abuse reports, and an accompanying increase in the "difficulty" of the children they serve. These claims cannot be evaluated because records are not available to determine why children are in care, what services were provided, and what services could have been efficacious in preventing removal. As a result, agencies are working in almost a prescientific manner in which all changes are made based on anecdotal information rather than hard data. Federal law and regulations should require agencies to keep better data so that the most basic figures on which planning should be based are available.

V. THE ADOPTION SUBSIDIES PROGRAM

Inadequate procedures and practices used by HHS to monitor compliance by the states with the adoption subsidy program result in deficiencies in that program. For example, even though eligibility for the program clearly may not be based on the means of an adoptive family, many agencies use a de facto means test by requiring families to provide an income statement in order to qualify for the subsidy. The agency also modifies the subsidy a family receives as often as once a year based on changes in income. These changes do not take into account variations in the needs of the child or the other factors to be assessed. In effect, these agencies have developed a means test which precludes many families from receiving any subsidy and so limits eligible children's prospects of adoption.

A related problem is the failure of the agency to publicize the availability of the adoption subsidy program or to encourage all appropriate families to apply for the subsidy. As a result, many families with low income who are serving as foster families do not become adoptive families because they fear the loss of foster care payments and Medicaid eligibility. Friends or relatives continue to be deterred from adopting children because they believe they cannot afford to do so. In addition, because of the lack of clarity in the law, families already receiving AFDC are unsure how an adoption subsidy will impact on their AFDC payments. As a result, the adoption subsidy program is not serving its function and children continue to drift in foster care despite the availability of appropriate adoptive families.

VI. OVERALL FAILURE OF HHS TO MONITOR COMPLIANCE WITH STATUTE

The failure of HHS to develop adequate regulations or monitoring procedures for Pub. L. 96-272 is a problem that permeates the whole system. Beside the failure to adequately monitor the reasonable efforts requirement and the adoption subsidy program, HHS fails to assess whether states' IV-B programs are adequate to address children and families' needs or even whether states actually follow their programs. Similarly, in many jurisdictions, the six-month reviews required by the law and central to the elimination of foster care drift, are merely paper reviews rather than an actual assessment of the case. As long as a review is conducted, HHS finds the state in compliance. No attempt is made in regulation or monitoring procedures to ensure quality reviews. As a result, many of the procedural protections of Pub. L. 96-272 have become meaningless bureaucratic rituals.

VII. COORDINATION OF SERVICES TO CHILDREN AND THEIR FAMILIES

Either in the context of Pub. L. 96-272 or in other legislation, the Federal government should begin to address the issue of coordinating services to abused and neglected children and their families. At this time, states are attempting to coordinate services in a back-door way by using foster care funding to provide for delinquency or even mental health placements. The Federal government should confront this issue head-on by pushing systems to become child rather than systems centered.

VIII. SPECIAL POPULATIONS

Finally, Congress must act to address the needs of special populations. The first and most visible population is, of course, homeless children. At this time, few jurisdictions provide housing to families as a preventive service. As a result, many children enter foster care because their families have lost their homes. Funds should be made available to provide housing to maintain the family unit. In addition, special funds should be made available to provide services to these children in dealing with the dislocation they have suffered and assist them in maintaining whatever ties they have to their original communities.

Second, and less visible, are the multi-problem children in foster care. These include medically fragile and drug dependent infants, children with serious mental health problems, and other hard-to-place children. These children have a complex of needs which must be met by different service systems which all too often refuse to accept responsibility for them. In addition, because of a lack of highly-skilled foster homes, these children are harder to place. Often they end up spending months in hospitals when they have no need of intensive medical care. This results in heavy Medicaid costs to both state and federal governments and heavy psychological costs to infants and children who grow up in institutions. Congress should sponsor a special initiative to help these most difficult and most victimized children.

IX. Litigation Addressing Systemic Problems in Child Welfare Foster Systems Since Pub. L. 96-272 Was Enacted.

Since Congress enacted Pub. L. 96-272 in 1980, cases litigated in approximately a dozen states[1] have served to dramatize the continuing existence of widespread systemic problems in child welfare. A review of the pending litigation highlights both the diversity and the pervasive character of these problems.

While Congress has expressed in Pub. L. 96-262 its intent that families be maintained intact where possible, that children in foster care be protected from harm, and that permanence be sought for children who cannot return home, the problems and abuses documented in the systemic child welfare cases litigated during this decade make clear that these goals are far from being a reality. They can only be achieved through increased efforts to implement the requirements of Pub. L. 96-272, not only by litigation but also by enhanced administrative enforcement and legislative measures to strengthen or clarify existing protections, as discussed above.

The following brief summary of relevant aspects of systemic litigation in eleven states that has been pending, newly filed, or resolved since Congress enacted Pub. L. 96-272 is intended to illustrate both the scope of the ongoing problems and the degree of effort needed to ensure effective implementation of even the existing legal protections.

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[1] California, Georgia, Illinois, Louisiana, Maryland, Massachusetts, Missouri, New Mexico, New York, Ohio, and Vermont.

A. California

In Hansen v. McMahon,[2] homeless families at risk of losing their children to the foster care system brought suit against the California State Department of Social Services to challenge the state's refusal to use its emergency assistance funds for shelter for families. Under state regulations, the emergency assistance program funds[3] could be used for emergency shelter for children who had been removed from their families, but not for shelter for children who lived with their families. The class action sought declaratory and injunctive relief based upon California's statutory scheme[4] that requires preventive efforts in the form of "emergency response" and "family maintenance" services to keep families together and upon the constitutional rights of privacy, free association, and equal protection.

In May 1986, the court granted a preliminary injunction, restraining defendants from enforcing state regulations insofar as they were more restrictive than state statutes in defining emergency shelter care "to exclude homeless children, regardless of whether the homeless children remain with their parent(s), guardian(s), or caretaker(s)."[5] The injunction was upheld on appeal.[6]

Although the injunction did not expressly require the state DSS to provide emergency shelter to families, that was widely believed to be its practical effect. In the wake of the appeals court decision upholding the injunction, the California Legislature enacted legislation establishing a $39 million state program to assist families in obtaining both temporary and permanent shelter. AB 1733, signed by Governor Duekmejian on September 29, 1987, makes housing assistance available as a nonrecurring special need under the state's AFDC program,[7] thereby allowing a homeless family to remain together as a family unit, rather than lose their children to foster care. Pub. L. 96-272 laid the foundation for this change by providing the impetus for the 1982 amendments to the California statutes that formed the basis of the Hansen claims.

B. Georgia

One of the factors critical to the reunification of families is regular visitation between parents and children. The availability of frequent visitation and of fair hearing procedures to challenge denials of visitation was the subject of three court orders issued in 1984 and 1985 in J.J. v. Ledbetter.[8] The J.J. case was brought originally under Title XX of the Social Security Act to establish the right to fair hearings to review denials of visitation. The case was subsequently amended to include claims under Pub. L. 96-272.

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[2] Hansen v. McMahon, No. CA 000974 (Cal. Super. Ct., Los Angeles County, filed Apr. 17, 1986)(Clearinghouse No. 40,807).

[3] Emergency Assistance for Needy Families with Children, 42 U.S.C. § 606(c).

[4] Cal. Welf. & Inst. Code §§ 16500 et. seq. These provisions were enacted to implement Pub. L. 96-272 in California.

[5] Hansen, No. CA 000974. No written opinion accompanied the judge's order.

[6] Hansen v. McMahon, 193 Cal. App. 3d 283, 238 Cal. Rptr. 232 (1987).

[7] Codified at Calif. Welf. & Inst. Code §§ 10200 et. seq.

[8] J.J v. Ledbetter, No. CV180-84 (S.D. Ga. Aug. 27, 1984); J.J., No. CV180-84 (Sept. 21, 1984); J.J., No. CV180-84 (Jan. 21, 1985).

In August 1984, the court approved a settlement establishing visitation policies and providing for visitation, if possible, at least once every two weeks. In September 1984, the court entered a further order specifying that parents are entitled to procedural due process when their social services and visitation rights are terminated by defendants. The court allowed the parties time to agree upon the appropriate procedures. In January 1985, after defendants had declined to respond to plaintiffs' proposed procedures, the court entered an order specifying the required procedures. The order, which is based on the mandates of Pub. L. 96-272, requires that a case plan be developed within 30 days of the date a child is taken into custody by the Department of Human Resources. The case plan must specify a visitation schedule and the services to be provided by the agency.[9] If a parent disagrees with any portion of the plan, the parent may seek review in a fair hearing before the state agency.

C. Illinois

In another case involving visitation rights, Bates v. Johnson,[10] plaintiffs challenged the practice of the Illinois Department of Children and Family Services (DCFS) of routinely limiting, to one hour per month, visits between foster children and their parents. Plaintiffs also challenged DCFS's practice of having social workers supervise all visits between parents and children and its failure to provide parents with an opportunity for notice and a hearing to challenge the visitation restrictions. Plaintiffs claimed that these practices prevent parents from maintaining close relationships with their children who are in foster care, hinder their efforts to reunite their families, and violate their rights under Pub. L. 96-272 and the United States Constitution.

In late 1985, Plaintiffs filed a motion for preliminary injunction to secure visitation for class members with their children during the holiday season. Under the terms of an agreed order, all class members were to receive notice that, when a case plan goal is reunification of the family, DCFS policy provides for unsupervised weekly visits of increasing duration in the parents' home, unless reasons affecting the well-being of the children are documented to justify restrictions. Implementation of the order is still pending.

D. Louisiana

Several foster children are the named plaintiffs in a class action suit filed in February 1986, against the Louisiana DHHR.[11] The class is comprised of the six thousand children in foster care in Louisiana and the large number at risk of being placed in foster care.

The suit charges that, although Louisiana receives millions of dollars in federal funds for foster care, it is violating key provisions of Pub. L. 96-272 by failing to make "reasonable efforts" to prevent family breakup. The suit also alleges that most Louisiana children have inadequate case plans, or none at all, that case reviews are carried out in very few cases, and that DHHR often does not implement recommendations resulting from the few reviews that are conducted. The complaint further alleges that the agency fails to maintain a reliable information system identifying the number of children in foster care or track actions taken on behalf of these children, as required by the federal statute.

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[9] Id., slip op. at 3 (Jan. 21, 1985).

[10] Bates v. Johnson, No. 84-C-10054 (N.D. Ill. filed Nov. 21, 1984).

[11] Dela A. v. Edwards, No. 86-0801, filed Feb. 26, 1986.

Foster care workers in Louisiana receive minimal training and supervision. The DHHR recently lowered the minimum educational qualification for the position to a high school diploma. Workers carry caseloads well in excess of state and professional standards; caseloads of 40 to 50 are not unusual. It is consequently impossible for workers to visit children in foster care on a regular basis and to document the work they do.

E. Maryland

Finding that "foster children are threatened with and are likely to suffer severe physical and emotional injury" and that their "constitutional right to protection while in defendants' custody is in jeopardy," a federal district court judge in Maryland issued a preliminary injunction against the Baltimore City Department of Social Services (BCDSS) in L.J. v. Massinga.[12] This injunction has been upheld on appeal.[13] The court's order directs the agency to monitor each child in foster care, particularly those in homes that have been the subject of reports of maltreatment; to assign sufficient staff and resources to ensure that every foster child receives appropriate and consistent medical care; and to provide the juvenile court and the child's attorney with written reports of any complaints of maltreatment of foster children within five days of receipt of such complaints, along with written reports of any action taken on the complaints.

The plaintiffs' allegations of widespread, systemic abuses in the Baltimore foster system were based in part upon a random study that reviewed 149 cases, and the study concluded that 25% of the children were likely to have been mistreated in foster care. The study, together with other evidence, documented major systemic problems, including misplacement of children; low foster care payments; an insufficient number of homes combined with a lack of any concerted effort to recruit foster homes; licensing of inadequate homes and licensing based upon inadequate information; "serious gaps" in the training provided to foster families, caseworkers, and supervisors; an agency organizational structure "conducive to chaos"; the need for stricter enforcement of policies requiring investigation of abuse and neglect complaints; and the need for substantial increases in staff size to reduce the child/caseworker ratio to 1:20.[14]

F. Massachusetts

> "This class action tests the jurisdiction and competence of the court to provide a remedy for a case of human tragedy. Simply and candidly stated, the facts are that children have suffered unspeakable injuries to the body and spirit. They have suffered, it is true, because of circumstances beyond the reach of the most benign and effective protection any government has ever afforded. But, as well, children have suffered because state officials charged with protecting them have fallen short of what they undertook to do."

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[12] Civ. No. JH-84-4409 (D.Md., July 27, 1987. Slip. op. at 26-27).

[13] 838 F.2d 118 (4th Cir. 1988).

[14] Slip op. at 15.

These are the opening sentences of the landmark opinion issued by the federal court in Massachusetts when it granted a preliminary injunction in Lynch v. King,[15] which was filed in 1978 to rectify widespread problems in the Massachusetts foster care system. The problems included unnecessary removal of children from biological parents due to lack of services, protracted stays in foster care, frequent moves to different placements, injuries resulting from inadequate supervision, and inappropriate delays in returning children from foster care.

The legal significance of the case stems from the court's recognition that Pub. L. 96-272 creates individual rights which may be enforced by private parties such as foster children and their families. The decision is also important because the court ordered the Massachusetts Department of Social Services (DSS) to implement certain specific remedies which had never been mandated before in a foster care case.

These included reducing caseloads to no more than 20 per worker, providing each child with a detailed case plan, periodically reviewing each child's status in foster care, and assigning each case, i.e. deliver the file, to a specific social worker within 24 hours of its receipt by the Department. Failure to comply with the injunction would result in the loss of federal child welfare funding. The injunction was affirmed on appeal.[16]

In a separate state court action, Doe v. Matava,[17] which was litigated simultaneously with Lynch, the Massachusetts Committee for Children and Youth (MCCY) reached a four-year settlement agreement with the DSS that suspends the class action filed in 1979 but allows MCCY to resume the lawsuit at the end of each 12-month period of the agreement if DSS fails to achieve the goals and timeliness set out in the settlement. The agreement provides for (1) workload controls and minimum staffing patterns; (2) training of social workers; (3) foster parent training; (4) health screening and a health care tracking system for children in foster care; (5) best efforts by DSS to monitor the health care of children on the DSS caseload not in foster care; (6) timely case reviews and reasonable efforts to reunite families; and (7) monitoring of services providers. The agreement also requires a comprehensive needs assessment of the foster care system, with particular attention to ethnic and language minority needs and provisions for computer use, monitoring and reporting, and paperwork reduction.

G. Missouri

Missouri was the site of a major case that asserted the federal constitutional and statutory right of foster children to be protected from harm while in foster care. G.L. v. Zumwalt[18] was settled by a consent decree, approved by the court on March 21, 1983. The action had been filed against officials of the Missouri Division of Family Services (DFS) on behalf of all children in Jackson County placed in foster homes by DFS pursuant to juvenile court order.

The five named plaintiffs ranged in age from 3 1/2 to 17 years old and had all suffered serious abuse or deprivation in their foster homes while under DFS custody. The complaint alleged that the class members were exposed to contagious alleged that the class members were exposed to contagious diseases, and suffered from lice, bedbugs, ringworm and scabies. The complaint also alleged that the class members were also deprived of medical and psychiatric care, were subjected to physical and emotional abuse, and were transferred between foster homes inappropriately and without adequate preparation.

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[15] 550 F.Supp. 325 (D. Mass. 1982).

[16] 719 F.2d 504 (1st Cir. 1983).

[17] No. 37561 (Mass. Super. Ct. filed July 24, 1979).

[18] No. 77-0242-CV-W-3 (W.D. Mo. filed Mar. 28, 1977).

Nearly six years after the original complaint was filed, the federal court approved a consent decree containing some of the most far-reaching and detailed provisions for the protection of foster children that have ever been made part of a court order. The decree contains detailed requirements governing licensing of foster homes and training of foster parents, matching of foster children with foster homes, medical care, corporal punishment, prompt investigation of abuse and neglect in foster homes, permanency planning, and caseload size. A requirement that DFS enroll each foster child in a health maintenance organization or prepaid health plan, and a provision that makes a foster parent's failure to ensure adequate medical care grounds for license revocation are examples of the innovative approaches the consent decree employs to prevent abuses that have occurred despite state regulations, and despite the existence of federal requirements contained in Pub. L. 96-272.

Since the consent decree was approved in 1983, the plaintiffs in G.L. have engaged in protracted follow-up work to ensure its implementation. The implementation phase of the case has required not only contempt proceedings against the defendants but also the involvement of a citizen's advisory panel appointed by the court.

H. New Mexico

Joseph A. v. New Mexico Dept. of Human Services[19] also involved claims under Pub. L. 96-272. Joseph A. was filed in July 1980 on behalf of children in the custody of the New Mexico Department of Human Services who were victims of foster care "limbo." The case sought to establish their rights to reasonable and fair decision-making with regard to access to adoption and to permanence, stability, and a family life.

Children in New Mexico's foster care system had been suffering from many of the same problems which afflict foster children in most states--e.g. very lengthy stays, multiple placements, and assignment of "permanent foster care" as a case plan. For the plaintiff group--children with no ongoing relationship with a biological family, the chances of these problems being redressed on an individual case basis were slim, since the children had no family members or other personal advocates to challenge their limbo status. The district court sustained some of the plaintiffs' claims, ruling that while plaintiff children had no inherent constitutional liberty interest in permanence, stability, or placement for adoption, they might have constitutionally protected due process rights based upon property interests arising from their entitlements under federal statutes, such as Pub. L. 96-272, or state law.

On September 23, 1983, the court approved a consent decree. The consent decree sets forth a detailed scheme for restructuring New Mexico's foster care system to ensure that foster children do not get lost in the system and requires the Department to establish permanent plans for foster children within six months of their entry into care. In addition, the decree contains provisions governing employee qualifications, social worker training, case planning, caseload size, adoptions, computerized records, citizen review boards, and monitoring of compliance.

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[19] 575 F. Supp. 346 (1983).

I. New York

Three cases were filed in New York City in 1985 seeking improved protective and preventive services for families of children at risk of foster placement due to actual or threatened homelessness. The three cases, Consentino v. Perales,[20] Martin and Bill A. v. Gross,[21] and Grant v. Cuomo[22] were all brought in state court as class actions. Consentino specifically sought housing assistance to enable homeless families and those at risk of becoming homeless to avoid foster care placement of their children due to the families' lack of adequate shelter. The Martin and Bill A. and Grant cases also sought housing assistance as a preventive service for families, but, in addition, they sought a full range of protective services for children alleged to be abused or neglected, and preventive services other than housing for families at risk of separation for reasons other than homelessness.

These three cases provide the opportunity for the first major interpretations of the scope of New York statutes requiring protective and preventive services. In 1979, New York enacted its Child Welfare Reform Act (CWRA),[23] which established, as state policy, that families should not be separated for reasons of poverty alone. The CWRA mandates local social service districts to provide preventive services to families, while creating fiscal incentives for them to do so. New York also has enacted extensive protective services statutes requiring investigations and the provision of services when children are alleged to have been abused or neglected. All three cases rely heavily on these New York statutes. The lawsuits also include claims based upon Pub. L. 96-272, as well as the New York and United States Constitution.

In May 1986, the court in Grant issued a preliminary injunction.[24] With respect to preventive services, the court found that New York law requires, for each child identified as being considered for placement in foster care, a child service plan that identifies the services required by the child, the availability of those services, and the manner in which they are to be provided. The court determined that this service plan is in the nature of a contract, enforceable by the court.[25]

However, a New York appellate court modified the lower court's order granting a preliminary injunction,[26] holding that the legislature did not intend to impose on social service officials a nondiscretionary duty to provide preventive services in all cases of alleged abuse or maltreatment. Furthermore, the court held that a child's service, plan did not create an enforceable contract requiring the city to provide all available services listed in the plan. Accordingly, it overturned the lower court's declaratory system-wide relief with regard to preventive services. Although the Grant court upheld the injunctive relief against the City of New York for its failure to investigate reports of suspected child abuse within 24 hours as statutorily mandated, it nevertheless refused to cite the city with contempt. This decision is being further appealed.

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[20] Consentino v. Perales, No. 43236/85 (N.Y. Sup. Ct., New York County, filed Nov. 7, 1985).

[21] Martin and Bill A. v. Gross, No. 24388/85 (N.Y. Sup. Ct., New York County, filed Oct. 18, 1985).

[22] Grant v. Cuomo, No. 25168/85 (N.Y. Sup. Ct., New York County, filed Oct. 28, 1985).

[23] Child Welfare Reform Act, 1979 N.Y. Laws Ch. 610 & 611.

[24] Grant, No. 25168, slip op. (N.Y. Sup. Ct., New York County, May 27, 1986)(preliminary injunction).

[25] Id., slip op. at 2.

[26] 518 N.Y.S.2d. 105 (A.D. 1st Dept. 1987)

Martin and Bill A. v. Gross and Consentino v. Perales were consolidated because the plaintiffs in both cases requested city and state defendants to provide sufficient services to enable homeless families to remain together. The fundamental right to family integrity formed the core of both actions. The court issued a preliminary injunction directing the city to develop and implement a plan for delivering preventive services consistent with its constitutional and statutory obligations. The court further enjoined the state from imposing a 90-day limit on emergency shelter as a preventive service, finding this limit to be arbitrary and capricious. In so ruling, the court rejected defendants' arguments that limited resources and shortage of staff justified the denial of state-mandated preventive services. The court relied not only on New York statutes but also on provisions of Pub. L. 96-272 and on constitutional protections. The defendants have appealed the injunction.

In Doe v. New York City Department of Social Services[27] a class of children in the custody of the New York City DSS challenged DSS's "night-to-night" program. Under this program, children in foster care are held in DSS offices during the day, transported at night to foster homes, child care facilities, or the city's Office of Emergency Services for Children, and returned to the field offices the next day to await another overnight placement. The court ruled this practice violated Plaintiffs' due process rights.

J. Ohio

In 1986, in Roe v. Staples,[28] the parties entered into a consent decree that required significant improvements in the delivery of services to Ohio's foster children. Plaintiffs had alleged violations of rights under Pub. L. 96-272 and the Due Process Clause of the Fourteenth Amendment. The district Court's order directed the Hamilton County Department of Human Services to develop a timely written case plan for each child, to implement heightened procedural protections for parents with respect to changes in placement or visitation, and to provide a range of preventive and reunification services. The order further directed the county to establish as a standard for removal that "there (must be) substantial risk of serious physical or emotional harm to the child" that "cannot be alleviated by the provision of available services to the family in the home."[29]

Plaintiffs in Roe also entered into a consent decree with the Ohio State Department of Human Services, requiring the state to issue administrative regulations within 12 months and to implement improved program standards for children's service agencies throughout the state.

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[27] No. 86 Civ. 4011 (S.D.N.Y. Sept. 24, 1987) (preliminary injunction).

[28] No. C-1-83-1704 (S.D. Ohio Oct. 2, 1986)(consent decree).

[29] Slip. op. at 11.

K. Vermont

Handicapped Vermont children and youth filed a class action lawsuit in state court challenging the failure of numerous state agencies to provide them with necessary services. The named plaintiffs in the case, Jane T. v. Morse,[30] are developmentally disabled adolescents who are or have been in the custody of the Department of Social and Rehabilitation Services (SRS). Although exact numbers are not known, plaintiffs' attorneys believe that the class may include as many as a thousand or more children and adolescents. While in state custody, the plaintiffs allege they have been denied minimal levels of child welfare, education, mental health, home-based, residential, and other supportive services and that they have not been protected from harm.

Defendants are state officials in the Agency of Human Services, the Department of Social and Rehabilitation Services, the Department of Mental Health, and the Department of Education. The plaintiffs contend that the state agencies not only have failed to address plaintiffs' needs but have actually exacerbated their underlying problems.

The plaintiffs base their claims on numerous federal and state statutes and constitutional provisions, including Pub. L. 96-272, the Education for All Handicapped Children Act (20 U.S.C. §1401 et. seq.), and due process claims under the U.S. and Vermont Constitutions.

X. CONCLUSION

The range of issues addressed above demonstrate the many challenges our country faces before the concepts of family preservation and permanency planning will be fully embraced by our child welfare systems. Nevertheless, we have the legal framework for confronting these challenges in Pub. L. 96-272. We must continue to strengthen this framework. The means to do so are there. We must ensure that the commitment to do so is also there.

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[30] No. S-359-86Wnc (Vt. Superior Ct., Wash. Co., filed Aug. 28, 1986).

STATEMENT OF ARTHA L. FREEBURY, DIRECTOR OF LICENSING, NATIONAL CHILD WELFARE RESOURCE CENTER FOR MANAGEMENT AND ADMINISTRATION, HUMAN SERVICES DEVELOPMENT INSTITUTE, UNIVERSITY OF SOUTHERN MAINE

On behalf of child welfare licensors throughout the country I am submitting the following testimony for the Joint Foster Care Hearings.

I am Director and the sole staff for licensing activities at the National Child Welfare Resource Center for Management and Administration. The Resource Center is one of of nine national child welfare centers funded in 1985 by the Children's Bureau, Department of Health and Human Services as "centers of excellence". Each center has a commitment to improve and strengthen a specific area within child welfare services. MARC (Management and Administration Resource Center) has targeted five areas of the child welfare system: Finance, data management, personnel, planning and evaluation, and licensing - thereby creating the first and only Licensing Resource Center in the country. MARC is committed to strengthening the capacity of state child welfare administrators to use exemplary methods and resources in managing their problems. Through integration of the management system, the five target areas become building blocks to success in the state's child welfare system. MARC provides tehcnical assistance by directly providing or brokering the services of an array of project consultants. MARC attempts to provide an organization-wide approach to the management of a child welfare system.

The above is an overview of my role in the development of the following testimony which evolves from Policy Directions for Foster and Residential Care Licensure: A National Symposium for Child Welfare Licensing Administrators, held in Leesburg, Virginia April 27-29, 1988. This meeting was organized by MARC as the result of requests for need from state licensors. The goals of the symposium were: (1) To provide a forum for licensing administrators to get to know one another, to share knowledge and experience and to form future working alliances, and (2) To develop position papers based on discussion of five of the most pressing concerns affecting child welfare licensing services. The five areas were selected as priorities by the licensors themselves in a pre-conference survey.

This was the first opportunity licensing administrators have ever had to convene and debate the most pressing concerns affecting licensing and child welfare today. The only other forum has been an annual licensing institute at Virginia Commonwealth University and, usually, states must rotate opportunity to attend among licensing personnel due to limited budgets, thereby reducing the ability of state's to develop networking capabilities. This meeting was organized with the express intent to forge working relationships that would endure beyond the conference; to encourage communication and sharing and build professional networks of support and assistance. 68 percent of the 50 states registered for the symposium. Of the remaining states, at least ten could not attend for budgetary reasons, two states indicated they had to choose between sending someone to this meeting or to the V.C.U. Licensing Institute. Several states could not send a representative because of staff size limitations and programmatic conflict. All states indicated they wanted to participate and were relieved that there would be a publication of the proceedings. The participation and turnout says to me that this type of conference was sorely needed. While our time was brief, activity was intense and I believe we accomplished our goals.

The following is a summary of the position statements, goals and directives that were developed by each of the five topic discussion groups at the Licensing Symposium. A list of participants is attached. Because of restrictions on time the reports from each of the discussion groups is in rough draft. A final report of the Symposium will not be available until September or October.

I. LICENSING'S ROLE: QUALITY CONTROL vs QUALITY ASSURANCE

1. Licensing has a commitment to quality care for children. Therefore, all publicly operated, sectarian, non-sectarian, non-profit and for-profit agencies and facilities providing out-of-home care to children should be required to meet state licensing standards.

2. All licensing programs should establish and implement measures of accountability for their programs and should include periodic training of licensing staff, program monitoring, credentialing and/or establishment of criteria for selection of qualified licensing staff, training management/administrative staff in effective management skills.

3. Multiple licensing of facities by different government entities should be coordinated to avoid placing duplicate or conflicting requirements on licensees.

4. All state licensing laws should include a requirement for review and revision at least every five years.

5. Licensing programs have a responsibility to provide technical assistance on how to meet licensing standards as well as to provide consultation to assist licensees in upgrading services.

II. THE IMPACT OF LOCATION AND ORGANIZATIONAL STRUCTURE/DISTINGUISHING CHILD WELFARE LICENSING FROM OTHER CHILDREN'S LICENSING SERVICES AND FROM OTHER CHILD WELFARE FUNCTIONS

In what department of state government should the licensing of child welfare agencies and institutions be located? Where within the chosen department should the licensing function be located? What should be the structure of the licensing unit?

Philosophically it would seem appropriate for child welfare licensure to exist as an entity totally separate from the department which supervises or administers such children's services as protective services, placement, adoption, purchase of service, or foster care. The risk in such a position, however, is that the regulators over time may become quite detached from service delivery personnel, child welfare philosophy and practice.

Iowa recently underwent a complete reorganization of state government where child welfare licensing was removed from the Human Services Department and placed in a strictly regulatory agency which also regulates grocery stores, hotel and motels, gas stations, restaurants, etc. While it is still too early to evaluate the effects of the reorganization, some have expressed concern that they are or will become significantly isolated from the human services arena. Others have viewed this as a positive in that they no longer feel influenced or controlled by the service delivery units and can conduct license reviews in a more objective manner.
In Arizona, licensing is located in the Children and Youth Services Division of the Department of Economic Security. This division is also responsible for the licensure of the Department of Corrections facilities. Criticism is sometimes expressed by corrections staff that licensing issues are frequently viewed from a child welfare perspective and consequently overlooks issues of concern to corrections such as security and isolation.

The Department of Human Services which licenses child welfare facilities in Ohio is in the planning stages of assuming responsibility for the licensure of private, non-secure facilities currently being licensed by the Department of Youth Services (corrections). The philosophy is that the orientation of such facilities are more closely related to child welfare than to corrections and that the current licensing body has less expertise in this area.

Since all licensure is done by public entities, there is also the issue of public image to consider. If licensing is located within a related department, there is the risk of public criticism for allowing the "fox to guard the chicken coop". This is particularly prevalent in those states where the state regulatory agency is also responsible for the actual delivery of child welfare services. While the risk is still present, it is perhaps less so in states where the state only oversees local public and private agencies which are the direct service providers. Historically, however, in most states, jails have been regulated by corrections departments, psychiatric facilities by mental health departments, hospitals by health departments, and child welfare facilities by public welfare departments.

Where then, does child welfare licensing truly belong? In this position paper we have identified five basic assumptions which should form the foundation of any licensing program. We formulated four essential "musts" for an efficient licensure program, and we listed five specific guidelines to aid states in deciding on the best location and structure of a licensing program for their particular systems. No two states are identical and it is not the purpose or desire of the participants of this group to propose best or standardized location or organization for the licensing process. Form follows function. Accordingly, there are some basic assumptions on which any licensing program must be founded:

1. **Licensing staff and administrators should be familiar with the programs they license.** Therefore, specific ongoing training of licensing staff in various treatment modalities utilized within the state is essential. It is critical that licensing staff share the same knowledge base as those whom they are licensing.

2. **Licensors must be knowledgeable about good management practices.** Licensing involves more than programmatic issues. How an agency is organized, the budgeting process, selection of board members, training, personnel policies, complaint procedures, and relationships with the community are some of the managerial and administrative functions which must be evaluated as part of the licensing process. Licensing staff must be trained in these elements in order to be able to credibly conduct licensing reviews.

3. **Experience is critical for licensing staff. Ideally, licensing staff should have worked at some level within an organization which is regulated.** Licensing is not, and should not, be viewed as an entry level position or one where an individual gains their first child welfare experience. Licensing is a difficult and complex area. When all is going well and all agencies are in compliance licensing is tolerated. In reality, however, non-compliances exist, negative sanctions are taken, and pressures are placed on licensing staff from a variety of sources. Staff cannot, therefore, be inexperienced, naive, and unable to effectively deal with conflict situations. The necessary skills are acquired through proper training and experience.

4. **The further the licensing function is placed from child welfare programs, the more critical it is to provide value orientation to licensing staff.** If located within a human services agency the staff will, at least by proximity, be exposed to current and emerging child welfare values and have the opportunity to continue to learn and grow with the field. If placed in a totally unrelated agency it becomes more critical for licensing personnel to maintain good working relationships with the human service agency. Such working relationships as well and the personal self-motivation of licensors is essential to maintain a current knowledge base of practice.

5. **In the area of regulation of public and private child caring agencies, political realities must be acknowledged and considered in deciding upon the location of the licensing function.** While it may not always appear so, licensing authority incorporates great power. Administered properly this power can be a tremendous asset to an agency administrator. Administered poorly it can be an albatross around their necks. Negative sanctions in licensing often may elicit political pressures. Ideally, support of the agency administration is necessary to insulate licensing from this political pressure as much as possible. First and foremost, licensing must be concerned with the protection of children in out-of-home care. When abuses occur strong sanctions may need to be taken with confidence that the agency administrator will intercede on the behalf of licensing. On occasion this may be reversed, with the agency director and licensing administration being pressured by state legislators. This is a reality but it cannot be the basis of licensing decisions or actions.

Departmental politics regarding any relocation with respect to the licensing function can be as volatile as legislative politics. The desire for power/influence by the agency administrators will weigh heavily on the decision. The reputation of the licensing program will greatly influence such decisions. In very simplistic terms, licensing can influence its own destiny by operating a good program. The perception of what is good will vary. The bottom line must be a well-founded licensing philosophy based on clear licensing statutes and well developed administrative rules which are consistently and fairly applied to all licensees through rational policies and procedures.

With the above basic assumptions in mind we now turn our attention to critical elements or "musts" for an effective licensing program.

1. **Licensing must have enforcement authority.** In addition to the authority to issue a license there must be the authority to revoke a license, with clear and concise procedures for doing so. With the exception of the umbrella authority of the agency administrator, the licensing administrator must have the primary and initial decision making authority with respect to enforcement.

2. **Administrative/line authority over licensing staff must be centralized in order to assure statewide consistency of the licensing philosophy and policies.** Where there are district or regional office locations for licensing, there must be direct supervision of their activities by a central licensing administrator. The difficulty in providing supervision at great geographical distances must be overcome through the use of regional supervisors who are responsible to the central licensing administrator or by central office supervisors who travel throughout the state. Without this continuity there will quickly develop regional differences in licensing philosophy and application of policies and procedures. This issue is more than a must for an efficient licensing program - it is an absolute. The greatest threat to a licensing program is regional administration resulting in inconsistent application of rules.

4. Licensing must have the support of the agency administrator (commissioner, director). Licensing decisions must be supported by the executive in charge of the agency. This support can be achieved through frequent updates and reviews of the licensing program. A positive perception of the licensing function will reflect well on the administrator as well as on licensing and will encourage administrative support in difficult times.

As stated earlier, it became clear during discussion that there is not a best location or structure for licensing. It also became clear that if our basic assumptions and "musts" were accepted, then as a natural conclusion the following location and structure specifics would guide each state in the decision making process for their individual systems.

1. Licensing should be structurally separate from and equal to placement, protective services, purchase of service, resource development and prevention services. If an agency is divided into divisions, bureaus, units, or offices licensing must have equal status to these rather than be a part of any of these areas.

2. Clarity of roles and responsibilities of all members of the agency is essential. For example, what is the role of licensing staff in investigating allegations of abuse or neglect in a licensed out-of-home care setting? Licensing staff cannot investigate the abuse/neglect but should focus on the question of compliance with licensing rules (i.e. discipline, restraint, care of children as required by the regulations). Ideally protective services staff and licensing staff should do joint rather than separate investigations.

3. Confidentiality barriers must be eliminated within the regulatory agency. All too frequently licensing staff are denied access to information in the course of investigation of rule violation. Licensing staff are often told that there has been an allegation of abuse in a facility, but then are denied any specific information and expected to do an investigation of the program blindly trying to find the source of the allegation. This not only wastes time but may affect the safety of children in care if the information cannot be quickly gathered and this approach is too scattered to be efficient. Objections to sharing details with licensing staff have traditionally been based on the fact that licensing records are public information. While this has been a valid concern in the past, it is no longer valid. Virtually every state has systems and laws in place to protect confidential information in all records. These must be relied upon to protect children from public disclosure and allow licensing to discharge their responsibilities efficiently and effectively.

4. The licensing unit should be structured to lend itself to specialization as much as is feasible. The current trend, primarily for budgetary reasons, is for generic licensing (i.e. one person responsible for applying several sets of rules across differeing program [illegible]: day care, family foster home, adult residential services, children's group or institutional care). The more sets of rules for which individual licensing workers are responsible, the less expertise they will have in each area. Consequently the reviews will be less thorough with a decrease in the level of protection provided to children in care.

5. Supervisory responsibility must be based on management's expected production in relation to the number and type of facilities within an individual area of responsibility, required frequency of reveiws, staff competency levels, and geographic distribution of staff and licensed programs. Because of the wide variety of programs which are licensed, the differences in rules state-to-state, the differing geographical distributions of facilities, and the varying complexities of review procedures it is not possible to establish a correct or best number of facilities per licensing worker or number of licensors per supervisor. The following guidelines for management and supervision should enable a licensing administrator to establish the appropriate workloads and supervisory responsibility for an individual state:

a. A supervisor must:
   - enable staff to do their jobs.
   - embrace a philosophy of and assure statewide consistency.
   - have a working knowledge of licensing rules and the specific programs licensed.

b. A manager must:
   - be the chief training officer both up and down the chain of command, with peers in the organization, and with the general public.
   - be able to deploy resources and staff as needed.
   - identify desired results and effectively utilize limited resources to achieve them.

III. NEW SERVICES: PROGRAMS FOR THE HOMELESS, EMERGENCY CARE, INDEPENDENT LIVING, SECURE CARE, ETC.

While identified as "new services" a number of the concerns addressed by this group included services that are re-surfacing in greater numbers and may be changing the direction of out-of-home care, and possibly altering the philosophy upon which services for children have been designed.

1. Surrogacy. Discussion centered around whether placement agencies handling such situations should be licensed and, if so, by whom. The differences in these situations from currently licensed child placement (adoption, step parent adoption, relative adoption) was also discussed. There was no consensus on the issue and participants felt time was insufficient to fully debate the issue.

2. Homelessness. Shelters for homeless families where children are in residence with their parent(s) should not require child welfare licensure. Health and building inspections should be in place to protect life and safety. Shelters for "street kids" (i.e. homeless shelters for youth) should be regulated with emphasis on health and safety and custodial care. Also, information and referral should be provided. There is a need to look at current shelter rules to see how they can be amended/waived to meet unique needs of this population.

3. Independent Living. Independent living should be regulated. Whether it is subsumed under child placing or residential rules or needs separate rules may be dependent on each state's statute or current rules. Physical safety issues, as well as issues of curriculum on independent living and supervision of youth need to be addressed in rules.

4. Secure Care. There is a need for intermediate care facilities; somewhere between a psychiatric hospital setting and a group home. These should be for a select group of youth with particular treatment needs, not to be used as a way to lock up runaways. There is also a need for attendant care facilities, especially in rural areas, for a specific identified population. There is a need to regulate such care, but rules should be developed specifically, rather than using current shelter rules.

5. Alternative Life Style Foster Homes. There is a need for safeguards to be in place for relative or child-selected placements, but the group was undecided whether monitoring should be done by protective service or licensing. In addition, there is a need for funding to upgrade culturally relevant placements for youth.

6. Institutional Care for Infants and Toddlers. Children under 6 years of age should not be placed in shelter care or institutional/group care unless there are specific treatment issues (i.e. intensive medical and/or psychiatric needs) which would allow for a waiver of this restriction.

7. Day Treatment Programs. Such programs need monitoring at a minimum (if not licensure) but should probably not be the responsibility of child welfare licensing programs.

IV. FUNDING OF LICENSING: VISIBILITY, PRIORITY, WORKLOADS AND STAFFING

Issue: The operation of the licensing program is driven by the extent of funding. Workload, staffing, training, and even program policy decisions are governed or limited by funding levels, over which licensing administrators generally have little or no control. In most states the allocation is determined by the legislature or other governmental entity. The allocation may be a line item or included in an agency's overall budget. Decisions by the legislature or agency are based on the perceived value of licensing. Because of negative attitudes toward regulation, low visibility, the lack of research data, competing priorities often backed by strong lobbies, and other factors, licensing often receives insufficient funding which impacts critical policy development and management decisions.

Strategy: Marketing - convince the decision makers of the value of licensing. Preliminary steps:

o Define the role of licensing. Find a vehicle (such as future symposiums) to secure input from leaders in all states on development of a definition. Try to reach a decision on the role of consultation in licensing, perhaps by clearly identifying (defining) what consultation is, so it can be differntiated from technical assistance and referral. Locate or develop research data on workload that can be used for comparative purposes among states and to identify a norm.

o Standardize definitions and practices nationally to some extent. Build on existing work such as the model standards and statutes and the core training curriculum. Begin with a "grassroots", bottom-up approach by encouraging each state licensing administrator to make changes within their state. Utilize the Resource Center as a means of promoting and disseminating the "standardized" material. Share this material with Congressional representatives and committees for inclusion in national child care legislation.

o Train licensing staff on the role of licensing, standardized policies and practices and their rationale. Work toward some consistency in minimum entry level staff qualifications, perhaps drawing on research data from the core curriculum project and other sources. Make a clear statement as to the need for experience and/or training in the provider service area as a basic requirement. Focus on the skills necessary to make the transition from social work to regulation in the selection and training process. Provide for an ongoing support system perhaps through the Resource Center and/or regular symposiums to maintain communication among top level state administrators, and encouraging that communication filter down to line staff.

Marketing Strategies: Once we are clear and consistent about our role, each state should begin efforts to target the groups to be identified below. Contacts can be personal, group, media, or any other effective method. Because we hope to have some degree of consistency nationally, a national campaign would benefit all states and further enhance the total effort. Because much of licensing is generic, we see day care licensing as being involved in this marketing campaign. With larger numbers of facilities and children in care, and often more funding, inclusion of day care would provide broader coverage.The target groups identified, their role, and the messages we want to convey to each are as follows:

o Parent/conservator:
    Wise consumer choices in placement
    Recognice "quality" and demand it
    Be aware of parents' and childrens' rights
    Know the benefits of using regulated facilities
o General public:
    Know the value of licensing, perhaps from an historical perspective
    Recognize the benefits, especially in potential savings of tax dollars
    Develop as child advocates

- Providers:
  - See licensing staff as credible (through required program experience and/or training)
  - View consultation as being supportive of their operation
  - Stress quality and professionalism in care
  - Be aware of provider rights
  - Have input into the licensing process
  - Understand liability
  - Work through positive provider associations
- Other divisions and agencies (e.g. fire and health inspectors, juvenile justice, child protective services, education system, mental health, religious groups):
  - Improve interface by clearly stating our role (educating them), learning more about their functions, improving communication, and exploring ways to offer mutual support.
- Legislatures:
  - Provide data for informed decision making
  - Rely on advocates (parents, providers, public) to carry the load as lobbyists
- Congress:
  - Utilize state liaison/lobbyist
  - Offer testimony for committee deliberations
- Resource Center, Association of Regulatory Administration, Child Welfare League of America, other professional groups (NAEYC, etc.)
  - Coordinate, share information, develop as advocates
  - Identify other funding sources (grants, etc.) to support marketing campaign
  - Identify funding sources available to states to supplement allocations
  - Support with state funds, if needed (Resource Center)

End Result: Having a better understanding of licensing and considering the broad-based support of licensing from the public and service providers, legislators and agency decision makers would see licensing as a priority area. Funding levels would be sufficient to support the program. Federal funding might also be provided to the states for that purpose.

V. RESPONSING TO THE AIDS CRISIS

Realities:

- At the present time there are 1000 HIV positive diagnosed children
- By 1992 it is predicted that there will be 15,000 HIV positive children
- Young adults diagnosed in the 1990's will probably have been infected as adolescents
- 55% of IV drug-using females of childbearing age are diagnosed with AIDS
- HIV positive/AIDS impact the operation of child care facilities
  1. Should each child entering a foster care facility be tested for AIDS at admission?
  2. Should a child at risk of acquiring AIDS be tested regularly while in care and/or at discharge?
  3. Should only children at risk of AIDS be tested?
  4. If a foster child is found to be HIV positive, does the state and/or the facility have the duty to inform parents and/or custodians of other residents?
  5. Are there confidentiality laws regarding AIDS which will restrict physicians from letting facilities know about the results of testing? ...or keep facilities and/or state from telling parents and/or custodians of other children in care?
  6. What liability risks are assumed by the state or foster care facility regarding any of the above questions?
  7. What licensing regulations are appropriate for foster care facilities regarding the acceptance and care of children who carry the HIV virus or who have been diagnosed with AIDS?

Questions 1-6 are policy questions which need consideration by policymakers departmentwide and statewide. Licensing should not be placed in the position of making those decisions. It is recommended, however, that the licensing agency should mandate that staff of 24-hour care facilities should be thoroughly trained in information regarding AIDS and such facilities educate residents in care.and should include

- Training on how AIDS can be acquired (facts and myths clarified), safe and unsafe sexual practices, sharing of needles in drug usage and other experiences such as tatooing and ear piercing

- Reassurance and reinforcement of facts to residents by staff
- Repetition of training to reinforce seriousness
- Good hygiene practices taught to and practiced by staff who care for children who are HIV or AIDS positive
- Training for adults in recognizing their feelings about sexuality to enable them to work with children about AIDS
- Foster parents must be given information and trained as well, both how to educate foster children in their care and in how to care for children with HIV or AIDS for their protection and their family's protection

No firm recommendation was made as to regulations for the operation of facilities to care for children with AIDS. Tow approaches were discussed, however:

1. Most rules for good hygiene are already in place. Good hygiene practices are what is necessary to cae for children with AIDS. If those regulations need to be improved to meet Center of Disease Control recommendations, that should be done. (A question was raised as to whether compliance with CDC recommendations should be determined by health inspectors.)

If facilities plan to have a specific program for care of children with HIV positive or AIDS, the facility must present a plan for intake, treatment and care of the children with AIDS virus and other children at the facility. If the facility develops the plan, the licensing agency can review as to its quality and appropriateness. The licensing agency will not have to write rules which are at risk of being discriminatory and possibly extend liability of the state. This approach gives facilities the right to be creative as to the care of children with AIDS and other populations.

2. The state should write specific rules about care of children with AIDS. Those rules should encompass all aspects of care, intake, confidentiality, testing, reporting , training, etc.

Both approaches raise the question as to when the facility becomes a health care facility and is no longer the regulatory responsibility of the child welfare licensing agency.

Much of the discussion centered around facilities, none of the discussion focused on the special needs of foster parents where at least some, if not the majority of the care will take place. The needs of the foster parent and foster family must be kept in mind when developing a foster home for the care of children with AIDS.

The discussion only scratched the surface. As more experience is gained in the care of children with AIDS in nonmedical settings, perhaps the collective experience of several states could be more beneficial.

CHILD WELFARE LICENSING SYMPOSIUM PARTICIPANTS

April 27-29, 1988

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Sponsored by: Licensing Division, National Child Welfare Resource Center for Management and Administration, Portland, ME
Co-Sponsors: Child Welfare League of America
National Association of Public Child Welfare Administrators, APWA

WRITTEN STATEMENT

PRESENTED BY

THE NEW YORK CITY HUMAN RESOURCES ADMINISTRATION

THE HUMAN RESOURCES ADMINISTRATION (HRA) OF THE CITY OF NEW YORK IS THE CITY AGENCY RESPONSIBLE FOR PROVIDING PROTECTIVE, PREVENTIVE, FOSTER CARE, AND ADOPTION SERVICES TO CHILDREN AND THEIR FAMILIES. WE WELCOME THIS OPPORTUNITY TO PRESENT A STATEMENT FOR THE RECORD SETTING FORTH OUR VIEWS ON CHILD WELFARE ISSUES FROM THE PERSPECTIVE OF NEW YORK CITY.

THIS STATEMENT WILL NOT DIFFER RADICALLY FROM THE TESTIMONY PRESENTED BY COMMISSIONER GRINKER A LITTLE MORE THAN ONE YEAR AGO BEFORE CONGRESSMAN MILLER AND THE HOUSE SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES, WITH ONE DIFFERENCE: A NEW EMPHASIS ON THE IMPACT THAT DRUGS -- PARTICULARLY CRACK -- ARE HAVING ON THE WELFARE OF CHILDREN AND THE ADMINISTRATION OF PROGRAMS DESIGNED TO PROTECT CHILDREN.

SPEAKERS ON CHILD WELFARE ISSUES ARE EXPECTED TO FOCUS ON INCREASES IN THE NUMBER OF REPORTS OF ABUSE AND NEGLECT, OR PREVENTIVE SERVICES VERSUS FOSTER CARE. WE BELIEVE THAT IS PUTTING THE CART BEFORE THE HORSE. IF WE REALLY CARE ABOUT THE WELFARE OF THIS NATION'S CHILDREN, WE SHOULD FIRST BE TALKING ABOUT THE NUMBER OF CHILDREN LIVING IN POVERTY, THE DEARTH OF JOB OPPORTUNITIES FOR THOSE AT THE BOTTOM OF THE ECONOMIC LADDER, THE GROWING NUMBER OF CHILDREN LIVING IN SUBSTANDARD HOUSING OR WHO HAVE NO ADDRESS AT ALL, OR WHOSE PARENTS HAVE FALLEN PREY TO ALCOHOLISM OR DRUG ADDICTION.

OVER THE PAST TWO YEARS, IT HAS BECOME INCREASINGLY APPARENT THAT IT IS THIS LAST FACTOR THAT IS HAVING THE CRUELEST IMPACT. JUST OVER TWO YEARS AGO THE FOSTER CARE CASELOAD HAD DIPPED TO JUST OVER 16,000, THE LOWEST POINT IN A DECADE. SINCE THAT TIME IT HAS BEEN INCREASING RAPIDLY AND NOW STANDS AT 20,700 CHILDREN. FROM SEPTEMBER 1986 TO NOVEMBER 1987 ALONE, THE FOSTER CARE CASELOAD INCREASED 14.1 PERCENT. WHILE THE APPEARANCE OF CRACK ON THE DRUG SCENE IS NOT THE ONLY REASON FOR THIS INCREASE, IT SHOULD BE NOTED THAT BETWEEN FY 1986 AND FY 1987 THERE WAS A 72 PERCENT INCREASE IN THE NUMBER OF ALLEGATIONS INVOLVING SUBSTANCE ABUSE, AND A 90 PERCENT INCREASE IN THE NUMBER OF NEWBORNS HAVING DRUG OR ALCOHOL WITHDRAWAL SYMPTOMS. THE MOST DISTURBING STATISTIC IS THAT OF FATALITY REPORTS: 33 OR 75 PERCENT OF THE 45 REPORTED DEATHS IN 1987 OCCURRED IN FAMILIES WHERE DRUGS OR ALCOHOL WERE ALLEGED.

SOME EXPERTS ON SUBSTANCE ABUSE BLAME THEIR INABILITY TO MAKE INROADS IN OUR POOREST COMMUNITIES ON THE LACK OF INCENTIVE FOR VERY POOR PEOPLE TO GET OFF DRUGS. PEOPLE WHO FEEL THAT THE NEXT DAY WILL BE NO BETTER THAN THE DAY BEFORE, WHO HAVE NO HOME OR JOB TO LOSE, WHOSE LIVES ARE A DAILY STRUGGLE, HAVE NO MOTIVATION TO RESIST OR GET OFF OR STAY OFF DRUGS. WE DO NOT MEAN TO IMPLY THAT SUBSTANCE ABUSE -- OR CHILD ABUSE AND NEGLECT -- ARE PROBLEMS LIMITED TO THOSE IN POVERTY. THESE ISSUES CUT ACROSS ALL ECONOMIC, RACIAL, ETHNIC, AND RELIGIOUS LINES. WE DO KNOW, HOWEVER, THAT FACTORS ASSOCIATED WITH POVERTY -- UNEMPLOYMENT, INSUFFICIENT FUNDS FOR NECESSITIES SUCH AS FOOD AND CLOTHING, DOUBLED UP HOUSING SITUATIONS -- ALL PROVIDE A BREEDING GROUND FOR SUBSTANCE ABUSE. AND NOW, WITH THE ADVENT OF THE RELATIVELY INEXPENSIVE CRACK, TEENAGERS AND YOUNG PARENTS ARE TURNING TO THIS ILLUSORY ESCAPE.

SUBSTANCE ABUSE IS NOT A NEW PROBLEM. THE DIMENSIONS OF THE CURRENT CRISIS AND ITS IMPACT ON OUR FOSTER CARE CASELOAD DO MEAN, HOWEVER, THAT IT SHOULD WARRANT UNDIVIDED ATTENTION. THIS EPIDEMIC OF SUBSTANCE ABUSE MAKES THE WORK OF CHILD WELFARE PROFESSIONALS ALL THE MORE DIFFICULT, AND ALL THE MORE URGENT. THIS HEIGHTENED URGENCY MAKES THE ADEQUATE FUNDING OF CHILD WELFARE PROGRAMS, THE TITLE IV-B CHILD WELFARE PROGRAM, AND THE TITLE XX SOCIAL SERVICES BLOCK GRANT ALL THE MORE IMPERATIVE.

BEFORE DISCUSSING TODAY'S PROBLEMS AND POSSIBLE SOLUTIONS, IT WOULD BE A GOOD IDEA TO TAKE SOME TIME TO REVIEW HOW WE CAME TO BE WHERE WE ARE TODAY.

BACKGROUND

HRA'S SPECIAL SERVICES FOR CHILDREN ADMINISTERS NEW YORK CITY'S FOSTER CARE, CHILD WELFARE, AND ADOPTION ASSISTANCE PROGRAMS AND HAS A BUDGET OF $690 MILLION. OUR FOSTER CARE CASELOAD STANDS AT NEARLY 21,000 CHILDREN, AND WE PROVIDE FINANCIAL AND SOCIAL SUPPORTS TO CHILDREN WHO ARE BEING CARED FOR BY RELATIVES OTHER THAN THEIR PARENTS, WHAT WE CALL KINSHIP HOMES. WE SERVE 13,000 FAMILIES AT ANY ONE TIME THROUGH PREVENTIVE SERVICE PROGRAMS, AND WE EXPECT TO HAVE PLACED 800 CHILDREN IN ADOPTIVE HOMES BY THE END OF OUR CURRENT FISCAL YEAR, WHICH ENDS JUNE 30.

THE GROWTH IN OUR FOSTER CARE CASELOAD IS NOT SUPRISING WHEN YOU CONSIDER THAT REPORTS OF ABUSE AND NEGLECT WENT FROM 18,000 IN 1980 TO ALMOST 47,000 IN 1987. THIS YEAR, WE EXPECT ANOTHER INCREASE TO A TOTAL OF 58,000 CALLS DURING OUR CURRENT FISCAL YEAR.

IT IS IMPORTANT THAT YOU REFLECT ON WHAT THESE NUMBERS REPRESENT, APART FROM THE OBVIOUS AND TRAGIC FACT THAT MORE CHILDREN ARE AT RISK. IT MEANS THAT AS THE AGENCY CHARGED WITH THE RESPONSIBILITY OF PROTECTING AND CARING FOR ABUSED OR NEGLECTED FAMILIES, WE MUST HIRE AND TRAIN SUFFICIENT STAFF TO REACT QUICKLY AND CORRECTLY WHEN A REPORT COMES IN, PUT IN PLACE SYSTEMS AND SAFEGUARDS TO ENSURE THAT CASEWORKERS HAVE THE SUPPORT THEY NEED TO DO THEIR WORK WELL, DEVELOP DIRECT AND CONTRACT PROGRAMS TO WORK WITH TROUBLED FAMILIES WHERE THE CHILDREN ARE NOT IN IMMINENT DANGER, AND, WHEN IT IS NOT FEASIBLE TO MAINTAIN A FAMILY TOGETHER, TO HAVE ENOUGH FOSTER FAMILIES OR QUALITY GROUP HOMES TO CARE FOR CHILDREN UNTIL THEY CAN RETURN TO THEIR PARENTS OR BE PLACED IN AN ADOPTIVE HOME.

IT IS NO SECRET THAT IN THE PAST WE HAVE FOUND IT DIFFICULT TO MEET OUR REPONSIBILITIES, THAT OVER THE PAST YEAR OR SO WE HAVE HAD TO WORK HARD TO IMPROVE OUR PROGRAMS AT THE SAME TIME THAT WE HAVE HAD TO DO SOME RAPID EXPANSION. IN ADDITION, BESIDES THE SHEER INCREASE IN THE VOLUME OF OUR CASELOAD, WE HAVE HAD TO DEAL WITH MORE DIFFICULT CASES. COURT INTERVENTION WAS REQUIRED IN 80 PERCENT MORE CASES IN FY 1987 THAN IN FY 1986, AND THE NUMBER OF CHILDREN WHO HAD TO BE REMOVED FROM THEIR PARENTS AND PLACED IN FOSTER CARE INCREASED 13 PERCENT DURING THAT SAME PERIOD. AND, SADLY, OUR POPULATION OF SPECIAL NEEDS BABIES -- THOSE INFANTS WHO HAVE MENTAL OR PHYSICAL DISABILITIES -- IS GROWING. AIDS AND AIDS RELATED ILLNESSES ARE INCREASINGLY A PROBLEM. IN MARCH OF THIS YEAR, WE HAD 54 SPECIAL NEEDS CHILDREN UNDER TWO YEARS OF AGE AND 33 OVER TWO YEARS OLD OCCUPYING HOSPITAL BEDS, UP FROM 34 JUST ONE YEAR AGO IN BOTH CATEGORIES COMBINED.

IN SPITE OF THE DIFFICULTIES, OUR CHILD WELFARE PROGRAM HAS TURNED A CORNER, AND WE DO HAVE SOME SOLID ACCOMPLISHMENTS TO POINT TO, SUCH AS:

- RAISING OUR COMPLIANCE WITH THE CHILD WELFARE REFORM ACT -- NEW YORK STATE'S ANSWER TO P.L. 96-282 -- FROM 60 PERCENT LAST JULY TO APPROXIMATELY 90 PERCENT IN MARCH;
- REDUCING THE LENGTH OF STAY OF "BOARDER BABIES" IN HOSPITALS FROM 34 DAYS PAST THE NEED FOR MEDICAL CARE LAST YEAR TO A CURRENT AVERAGE OF FOUR DAYS;
- IMPLEMENTING A RAPID RESPONSE PROTOCOL, WHICH HAS ENSURED A QUICK AND APPROPRIATE RESPONSE ON AN AVERAGE OF 98.7 PERCENT OF HIGH RISK CASES;
- OPENING THE CHILD PROTECTIVE SERVICES TRAINING ACADEMY, WHICH NOW OFFERS A 20 DAY CURRICULUM FOR NEW STAFF AND WILL BE EXPANDED TO INCLUDE A MORE EXTENSIVE FOLLOW-UP;

- O REFERRING CASES FROM OUR PROTECTIVE/DIAGNOSTIC (INTAKE) UNITS TO FOSTER CARE OR SERVICE UNITS EXPEDITIOUSLY FOR CASE MANAGEMENT, WHILE IN THE PAST, CASES REMAINED INAPPROPRIATELY IN INTAKE FOR LONG PERIODS.

- O DEVELOPING AN ADDITIONAL 1,709 FOSTER FAMILY HOMES AND 108 GROUP HOME BEDS DURING THE FIRST HALF OF OUR CURRENT FISCAL YEAR, MORE THAN SIX TIMES THE NUMBER OF BEDS ADDED IN THE SAME PERIOD LAST YEAR;

- O WINNING INCREASED CITY FUNDING -- $9.2 MILLION FOR FY 1989 -- FOR ADDITIONAL FIELD STAFF, WHICH WILL MEAN SUSTANTIAL INCREASES IN THE NUMBERS OF STAFF AVAILABLE COUPLED WITH OUR IMPROVED TRAINING AND MANAGEMENT, THIS WILL MEAN A DRAMATIC, POSITIVE IMPACT ON OUR FIELD OPERATIONS.

WE DO NOT MEAN TO PORTRAY A PROGRAM WITHOUT PROBLEMS. WE ARE, FOR EXAMPLE, BEHIND WHERE WE SHOULD BE ON ADOPTIONS. WE HAVE, HOWEVER, RECENTLY CREATED AN ADOPTION REVIEW UNIT, WHICH WILL TRY TO CUT SOME OF THE UNNECESSARY RED TAPE THAT SLOWS THE ADOPTION PROCESS.

AND, FINALLY, IN A SMALL WAY FOR NOW, WE ARE TRYING TO ADDRESS THE SUBSTANCE ABUSE PROBLEMS, THAT IN NEW YORK STATE, AT LEAST, COME UNDER THE AUTHORITY OF THE DIVISION OF SUBSTANCE ABUSE SERVICES (DSAS). WE ARE NOW EVALUATING THE PROPOSALS WE RECEIVED IN RESPONSE TO OUR REQUEST FOR PROPOSALS FOR THE CREATION OF A FOSTER CARE PREVENTION PROGRAM FOR PARENTS WITH RECENT HISTORIES OF DRUG ABUSE. MOST OF THE FAMILIES THAT WILL BE SERVED ANNUALLY THROUGH THESE PROGRAMS WILL INCLUDE THE PARENTS OF "BOARDER BABIES" SINCE 80 PERCENT OF THE MORE THAN 350 NEW INFANT CASES REPORTED EACH MONTH ARE DRUG RELATED. IN ADDITION, IN A COOPERATIVE EFFORT WITH DSAS, WE SERVE 100 FAMILIES IN THREE SEPARATE PROGRAMS PROVIDING DRUG REHABILITATION AND PREVENTIVE SERVICES.

THE FEDERAL ROLE

WHILE THE DEVELOPMENT AND ADMINISTRATION OF PROGRAMS AND INITIATIVES SUCH AS THOSE DESCRIBED ABOVE ARE, FOR THE MOST PART, A STATE AND LOCAL RESPONSIBILITY, ADEQUATE FINANCIAL SUPPORT FOR SERVICES THAT STRENGTHEN FAMILIES AND HELP KEEP THEM TOGETHER IS A RESPONSIBILITY SHARED BY ALL LEVELS OF GOVERNMENT. P.L. 96-272 HAS PLAYED AN IMPORTANT ROLE IN HELPING US TO DEAL WITH THE PROBLEMS FACED BY AN EVER GROWING POPULATION OF CHILDREN AND ADOLESCENTS. OUR NEEDS, AS WE INDICATED, HAVE GROWN AND CHANGED, AND FURTHER FEDERAL SUPPORT IS NEEDED.

WE THEREFORE CLEARLY SUPPORT EFFORTS TO STRENGTHEN P.L. 96-272 AND EXTEND ITS PROVISIONS SO THAT WE MAY CONTINUE THE IMPORTANT WORK WITH CHILDREN AND FAMILIES THAT CONGRESS ENVISIONS: A SYSTEMATIC CHILD WELFARE PROGRAM CONTAINING A FULL RANGE OF SERVICES TAILORED TO MEET THE INDIVIDUAL NEEDS OF TROUBLED FAMILIES. BY THE SAME TOKEN, WE ARE OPPOSED TO EFFORTS THAT WOULD PLACE ARBITRARY FUNDING CEILINGS ON FOSTER CARE SERVICES AND FURTHER REDUCE THE MONEY AVAILABLE FOR PREVENTIVE AND FAMILY SERVICES. WHEN P.L. 96-272 WAS ENACTED, CONGRESS TIED CERTAIN REQUIREMENTS TO FUNDING INCREASES IN THE TITLE IV-B CHILD WELFARE PROGRAM, AND LEGISLATED INCREASES IN THE TITLE XX SOCIAL SERVICES BLOCK GRANT TO ENABLE STATES AND LOCALITIES TO IMPLEMENT THE NEW PROTECTIONS, PROCEDURES AND REQUIREMENTS, AND SUPPORT SERVICES. INSTEAD, TITLE XX WAS CUT BY $700 MILLION IN FY 1981 AND FEDERAL RESOURCES IN THE TITLE IV-B CHILD WELFARE SERVICES PROGRAM HAVE BEEN CONSTRAINED. EVEN WORSE, WITH REGARD TO TITLE XX PROGRAMS, IT PUT MANDATORY PROGRAMS IN COMPETITION FOR THE SAME FUNDS AS NON-MANDATORY SUPPORTIVE SERVICES SUCH AS DAY CARE.

IN ADDITION TO OUR SUPPORT FOR P.L. 96-272, WE ALSO STRONGLY SUPPORT MANY OF THE PROVISIONS OF CONGRESSMAN MATSUI'S BILL, H.R. 2753, INCLUDING PROVISIONS THAT WOULD;

- O ALLOW STATES TO CLAIM INDEPENDENT AND LIVING FUNDS FOR SERVICES TO FOSTER CHILDREN BETWEEN THE AGES OF 14 TO 21 YEARS OF AGE, AND FOR VOLUNTARY AFTERCARE SERVICES FOR YOUTHS DISCHARGED FROM FOSTER CARE UNTIL THEY TURN 21;
- O CREATE HEALTH CARE PLANS FOR ALL FOSTER CHILDREN, WITH POSSIBLE WAIVER PROVISIONS FOR SHORT-TERM PLACEMENTS; AND
- O MANDATE AND PROVIDE REIMBURSEMENT FOR CONTINUOUS AND EXPANDED TRAINING FOR FOSTER CARE WORKERS AND FOSTER PARENTS. MANY OF THE CHILDREN REMAINING IN FOSTER CARE TODAY ARE THOSE EXHIBITING SEVERE PHYSICAL AND EMOTIONAL PROBLEMS WHICH MOST FOSTER PARENTS ARE NEITHER EQUIPPED NOR PREPARED TO HANDLE. THE CITY NOW REQUIRES FOSTER PARENTS TO COMPLETE 12 HOURS OF INITIAL TRAINING FOR SPECIAL CARE OF PHYSICALLY HANDICAPPD CHILDREN AND AT LEAST 15 HOURS FOR THE CARE OF SEVERELY HANDICAPPED CHILDREN.

WE ALSO STRONGLY SUPPORT H.R. 945, INTRODUCED BY SENATOR METZENBAUM, WHICH WOULD FUND FOSTER CARE DEMONSTRATION PROJECTS FOR "BOARDER BABIES," PARTICULARLY THOSE WITH AIDS. WE STRONGLY SUPPORT THIS FEDERAL INITIATIVE WHICH WILL AID LOCAL GOVERNMENTS IN TRAINING AND RECRUITING NEW FOSTER PARENTS AND CHILD CARE WORKERS.

INITIATIVES NOT TRADITIONALLY SEEN AS CHILD WELFARE RELATED, BUT FOR WHICH WE ADVOCATE FOR MORE FEDERAL INTERVENTION INCLUDE:

- O A NEW FEDERAL EMPHASIS ON LOW-INCOME HOUSING SO THAT THE 5,000 FAMILIES LIVING IN EMERGENCY QUARTERS IN NEW YORK CITY AND THE ESTIMATED TENS OF THOUSANDS OF FAMILIES LIVING DOUBLED UP WITH FRIENDS AND FAMILY CAN HAVE A PLACE TO CALL THEIR OWN;
- O FEDERAL LEADERSHIP IN THE CREATION AND FUNDING OF NEW TREATMENT AND RESIDENTIAL FACILITIES FOR DRUG ADDICTS WITH YOUNG CHILDREN, WITH SERVICE COMPONENTS THAT INCLUDE TRAINING IN PARENTING SKILLS AND DAY CARE; AND
- O ADDITIONAL FUNDING FOR EXISTING TRAINING AND JOB DEVELOPMENT PROGRAMS THAT WOULD OFFER TROUBLED FAMILIES HOPE FOR A BETTER TOMORROW.

CONCLUSION

THE NEED FOR EXPANDED AND COMPREHENSIVE PROGRAMS FOR FAMILIES AT OR NEAR THE BREAKING POINT HAS NEVER BEEN GREATER. THE FACTORS WHICH SPUR THE INCREASING DEMAND FOR FOSTER CARE OF INFANT CHILDREN, PRIMARILY DRUG AND CRACK DEPENDENCY, SHOW NO SIGNS OF ABATEMENT. HRA HAS MADE MAJOR PROGRESS IN TURNING THE FOSTER CARE PROGRAM AROUND AND IN DEVELOPING NEW PROGRAMS TO ACCOMMODATE CHANGING DEMANDS. WE WOULD LIKE TO EXTEND AN OPEN INVITATION TO YOU TO CALL UPON US WHEN YOU HAVE QUESTIONS OR SUGGESTIONS WHICH MAY HELP ADDRESS THE PROBLEMS IN CHILD WELFARE. IN THIS IMPORTANT AREA INVOLVING CHILDREN AND FAMILIES, WE ARE CONFIDENT THAT A RENEWED FEDERAL COMMITMENT WOULD GO A LONG WAY TOWARD ENHANCING OUR EFFECTIVENESS.

Richard F. Celeste
Governor

Ohio Department of Human Services
30 East Broad Street, Columbus, Ohio 43266-0423

Testimony
On the Effects of PL 96-272 on the Foster Care System
in Ohio

Select Committee on Children, Youth, and Families

April 28, 1988
Washington, D.C.

Introduction

The effects of PL 96-272 on the foster care system in Ohio has been viewed as successful in that the federal law has established the direction for Ohio in revising and strengthening the child welfare system. The law has had an impact on the state by reducing the foster care population, establishing more thorough case planning for families and children, and emphasizing preplacement preventive services to strengthen and preserve families.

The administration of PL 96-272 by the Department of Health and Human Services (DHHS), Administration for Children, Youth, and Families (ACYF), has been viewed in Ohio as erratic, and in lacking sufficient technical assistance to assist the state in implementing the major program concepts of the law. Instead, federal emphasis has been focused on requiring high sophisticated fiscal requirements aimed more at limiting valid program expenditures.

Initially, the implementation of PL 96-272 rested with each state attempting to interpret the law. No federal regulations were adopted until almost three years after the effective date of the law. Ohio attempted to interpret the statute in good faith and began to focus on promulgating rules and regulations to meet the law's requirements. However, Ohio soon realized that DHHS, without regulations, was also interpreting the law differently than Ohio. The implementation efforts in Ohio were beset with having to change rules to meet new interpretations that were received through the regional office.. Ohio, being a county administered, state supervised state, had great difficulty adjusting to the changing interpretations and attempting to achieve consistency in its' eighty-eight counties as a result.

Once the federal regulations for PL 96-272 were finally promulgated, they were (and remain) too vague and broad in many sections. The result has been the need to rely on DHHS Policy Interpretation Question (PIQ) documents to meet requirements. These PIQs are used as regulations by DHHS staff and their application and intrepretation varies from one regional office to another. An example of this issue dealt with the need to establish a centralized computer system to meet the requirements of Section 427, or the need for an information system. Ohio was not found eligible with Section 427 requirements initially due to the information system requirement. Ohio has subsequently been able to meet this requirement after expending several million dollars for a fully automated computer system in all counties.

Further, Ohio was named in a federal class action law suit, Roe v. Staples, in 1983, settled through federal court consent decree in 1986. The suit focused on the need for additional interpretation of federal regulations that had not been clear and concise at the outset of the law. The suit was prompted due to the disparity between Ohio's effort and interpretation of the federal requirements and interpretations brought forth by the Legal Aid Society of Cincinnati on behalf of their clients.

The relationship between Title IV E and Title IV B has been viewed as a significant step in coordinating federal funds. However, the funding level to fully implement preplacement preventive services, a major program concept of PL 96-272, has been insufficient through Ohio's Title IV B allocation. The philosophy of placement of children is emphasized through Title IV E, yet the Title IV B emphasis is on family preservation services to prevent placement. Interestingly, Title IV E funds are open-ended but Title IV B funds are limited and insufficient to implement a statewide comprehensive program to strengthen families and children.

Barriers

There have been several additional barriers encountered in implementing PL 96-272 in Ohio as follows:

1. The law was written for a state administered child welfare system where the state is child's custodian. This is not realistic in a county administered system where the county is the custodian and each juvenile court within the state such as Ohio has original jurisdiction over the child. The state agency in Ohio has legal limitations on it's authority and ability to impose legal requirements upon juvenile courts and agencies, yet is held accountable for the outcomes of these systems.

2. There has been conflicts and duplication of effort in adhering to Ohio law and also attempting to implement PL 96-272. Ohio has recently amended its' statutes to correct this problem which has taken over three years. Amended Substitute Senate Bill 89, effective in January, 1989, has been a major statute in Ohio which will reduce these conflicts.

3. Maximizing the usage of Title IV E for administrative costs has been almost impossible due to elaborate DHHS requirements. Again, the emphasis has been on limiting costs that would be needed to treat children in placement - the major focus of a child's reunification plan - while seemingly allowing a variety of foster care maintenance costs which emphasize continued placement. Emphasis should be on short and intensive treatment of children in care so that children can leave care as soon as possible. Such costs are not generally allowable under DHHS requirements.

4. The Title IV E eligibility and program requirements have been also a barrier in implementing the foster care maintenance and adoption assistance program. Specifically, ADC categorical eligibility requirements should be removed for adoption assistance and the federal focus should be on the finanical needs of the adoptive family rather than focusing on child specific eligibility. Ohio's state funded subsidized adoption law has included this provision since 1972 .

Successes

Ohio has experienced successes as indicated in the Introduction. These successes are as follows:

1. There has been a reduction in the length of time children have been in substitute care and exit care.

2. There has been an increase in the number of families and children receiving in-home or family preservation services.

3. Children entering the foster care system are not only leaving the system sooner, but there are more children entering the system for short periods of time.

Insights

The experiences of Ohio over the past 8 years dealing with PL 96-272 are as follows:

1. Meeting all of the federal regulations does not necessarily assure thorough and acceptable casework planning. The DHHS Section 427 case reviews are a review of records only with no focus on the quality of services provided to families and children.

2. Appropriations should be available for children at risk of foster care placement making them eligible for services and funding as if they were in foster care.

3. Mandatory 90 day specialized reunification services should be required and federally funded for families whenever a foster child returns home.

4. Once an agency receives a report of child abuse or neglect, federal funding should be available to provide intensive home-based services to prevent the child's removal, e.g. respite care, parent aides.

Thank you for the opportunity to provide written testimony regarding PL 96-272 and its' effect on the Ohio foster care system.

VICTIMS OF CHILD ABUSE LAWS INC
VOCAL

VALUING THE AMERICAN FAMILY
P.O. Box 40460 • St. Petersburg, Florida 33743 • Phone (813) 347-1197

April 26, 1988

Select Committee on
Children Youth and Families
385 House Office Building
Annex 2
Washington, D.C. 20515

RE: Written Testimony
Foster Care/Child Welfare
Select Committee on C.Y.& F.

Dear Committee Members,

As a barely literate representative example of how healthy families are destroyed by the child welfare system please include this handwritten letter from Robert Oliver.

VOCAL represents a true "consumer voice" from the public sector, rather than just perception. We have consulted on a two award winning T.V. news special series, a Hollywood documentary, every major T.V. talk show, the Lisa (Steinberg) Project Task Force, federal agency consensus meeting on child abuse, etc VOCAL should testify at future Select Committee hearings.

A Blue Ribbon Committee to develop a Model system is required. Horror stories abound, and have been documented for years. Bandaids will not improve the hodge podge, knee jerk system that has unguidedly expanded for 114 years. Outline attached as written testimony.

Thank you for Valuing the American Family.

Sincerely,

Edwin Carlson, D.D.S.
Edwin C. Carlson, D.D.S.
President

Linda Gross
Linda Gross
Executive Director

VICTIMS OF CHILD ABUSE LAWS INC
VOCAL

VALUING THE AMERICAN FAMILY
P.O. Box 40460 • St. Petersburg, Florida 33743 • Phone (813) 347-119

COMMON GROUND: A NEW MODEL

Dr. Edwin C. Carlson

Common ground must be discovered by level-headed whole-hearted people who care about children and families. A NEW MODEL can be developed that truly helps abused children (without twice and thrice abusing them in the system), and without unnecessarily involving/abusing innocent children and families.

The current system does neither. More then abuse/no abuse, we must ask the question "Do we have something better to offer the child?" The Michigan Supreme Court's report outlines how state intervention often makes the child's life worse. Separation and foster care are both damaging in and of themselves.

THE SYSTEM ROLLS OVER CHILDREN AND FAMILIES, GRINDING THEM UP AND LEAVING THEIR MANGLED REMAINS FLOUNDERING IN ITS PATH.

The traditional approach of "rescuing" a child (like an animal) by separation that began 114 years ago when the SPCA rescued the first child must progress to a philosophy of family preservation. QUALITY alternative living must be provided for children who cannot return home. The Sheriffs Ranches, Justice for Children Ranch, and Youth Haven are examples of quality private sector alternatives.

Around this core philosophy must be built a sophisticated system based on research and pilot programs rather than knee-jerk emotional responses.

A NEW MODEL, a better way can be developed out of the existing research and pilot programs. The first step is a solid DEFINITION of abuse and what to report and what not to report. The second step is SCREENING of calls for validity, appropriateness/referral to another agency for service, or for investigation. Conservative estimates from current programs are that 30% of reports can be eliminated, saving 600,000 children and families a year from harmful unnecessary investigations/interventions. Scarce resources can be better applied where truly needed and to the problem of under-reporting of valid cases.

Next we can progress to developing a quality program for dealing with actual abuse/neglect. On a foundational philosophy of Family Preservation/ Quality Alternative Living we can build a quality training program, integrated with an employee retention program, integrated with a career ladder for caseworkers including credentialing, and proper risk assessment tools integrated with a continuum of services to meet a continuum of needs. We cannot have one without the other, categorical approaches must give way to a wholistic approach.

COST EFFECTIVE: Government research shows Family Bases Services are over 90% successful keeping children safely in their own home, when traditionally they would have gone into foster care. The dollar cost: less than 10% of foster care costs! The social savings: 69% of incarcerated criminals in California came out of foster care. A long range expense!

For the remaining children who do need to be removed from home or provided a living place, we must have a strong adoption program backed up by quality youth ranches with volunteer grandparents. These children can have a stable loving environment in which to grow into caring adults who are a creative part of society. This can truly become "family".

A HEALTHY SYSTEM must be created before we can help children and families in crisis back to health. The research to do this is now available. HRS (social services) should be like a hospital or antibiotic, a short intensive helpful interaction, then getting out of people's lives so they can get on with living in a healthier manner.

We have created cars, planes, telephones, universities, and other miracles. We can apply our creative energies to developing effective/constructive interactions with children and families. We can lead our nation in Valuing the American Family. STRONG FAMILIES MAKE A STRONG NATION.

To which part of the whole will you commit yourself?

March 22,1988 St. Petersburg, Florida
Permission to reprint is granted.

CHILD ABUSE LAWS, INC
VOCAL

VALUING THE AMERICAN FAMILY

P.O. Box 40460 • St. Petersburg, Florida 33743 • Phone (813) 347-1197

A NEW MODEL

I. INVESTIGATIVE PHASE should be handled by specially trained police, sheriff's department, or professionals from the community with one initial standardized interview that is video taped. The interview format should be developed by University research and non-harmful to the child. HRS is not qualified or trained to investigation and should be totally removed from the investigative picture. "Hot lines" to be handled by only the most experienced diagnostic specialists. Face to face interview with the reporter, before involving the family. Interviewing family, teachers, doctors prior to involving the child, whenever possible. End anonymous reporting to reduce malicious complaints. The reporter is already protected by law. Tape record all interviews to insure honesty, accuracy and professional attitude. Substitute confidentiality of names for confidentiality of all records.

II. FAMILY BASED SERVICES for families that need help. In the home services provided to the family to help them through the crisis situation. These services to be provided by local organizations under local control so there is accountability to the community. Organizations that provide family based services do not have the power to remove the child from the home so this is not one of their options. Their goal is to keep the child and family intact as mandated by Florida Legislature. If the child does have to be removed from the home, a board inquiry into the cause of failure -- the services, the parent, the child or other. When state money is provided to private organizations there are extremely demanding requirements made for quality control. Family Based Services are over 90% successful, and are cost effective -- less than 3 months in foster care.

III. QUALITY CARE FOR THE FEW CHILDREN REMOVED FROM THEIR HOME VIA A NEW ORPHANAGE/YOUTH HOME/RANCH for high visibility, age appropriate programs and early permanent homes to avoid "foster care drift". Children could be easily tracked by computer. A volunteer grandparents organization could be developed to provide these children with love and affection. If the children have to grow up in state care they will at least have a stable home and can develop a relationship with their foster brothers and sisters, rather than being repeatedly changed from one foster home to another.

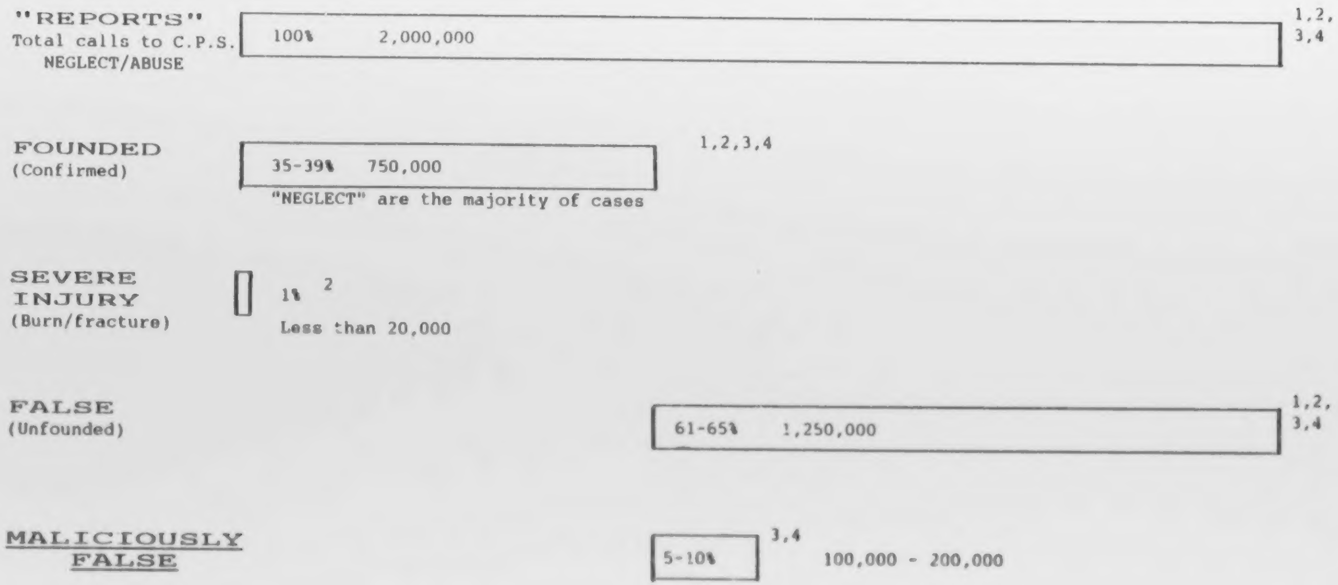
IV. CERTIFY JUDGES who are interested in children and families through special training. Children and family issues would only be heard by a CERTIFIED JUDGE. This program is much easier, simpler, and quicker than developing a family court system. A few changes in the existing system would be necessary and would be financially feasible. Short time frames for cases involving children; biweekly status hearings rather than reviews. "Justice delayed is justice denied." The case absolutely remains with the same judge, goes with the judge if he changes sections, only another judge if there is a true emergency approved by the administrative judge. "One Family, One Judge."

I was dissabled Reagon Soc. Sec Dis. changes
caused me as maney others to be cut off of Soc. Sec
The Well fare cut off our A.F.D.C. do to me being cut of
of Soc. Sec And would not help me to get help
for Beth. They By Court order said if I didnt
see to it that Beth got the help that they
Would take her. and they did. I got a job
in Velma Ok. at a Christion Reserch Senter
They would not let me take Beth - I asked if I coul
with my Wife Son & and youngest Girl Take Beth to
the Dairy Quen just 1 Block down I whanted to
tell her that we loved her and that we wasnt
leaveing her for ever. And that I would try to
get her as soon as we was settled. But no
the house parent threatend to have me put in ja
for beeing thair and even Say good by to my first
Born. You know Im allmost 400 pound and 4 yrs has pas
But just writing this hurts so mutch that Im in tears
and I'm at work so I must stop for now to get my
Self together - After moving we got a notice from the court
that they was having a parental Rights hearing we got it
1 weak after the court Date. And becouse we didn't show
up we lost Beth for ever, We sent her Xmas gifts they
Wrote us back saying that we was'nt Beth's parent
any more and if we tryed to send any thang ag
that they would distroy it / and not ever try to make
contact again or we would go to jail. They may say
that Im not her Dad But to me I still will love her
nead hear and be her Dad till the day I die.
from that date on My Mariage has been rough I Bl
my wife - My wife Blame me, Im afraid to love my ot
Boy & Girl as I should. I got custidy of my Brother's
[illegible] Old Boy Becaus of Child ABUSE He was in

want to come Home. But he said that he realy does. The School will not tell us even how he is doing in Shool- AThis becouse Im just abought at wits end. But I wonder if They had thair family riped apart not only once but two times as I did- and I can't even difend my self Becouse How do you defend your self for Being Maybe not the best parent but the best that you a able to be
or for loveing to mutch and not wanting to Let go
Or for being a nervis Reck after 4 yrs of Hell and Knowing that it will contenue the rest of your Life
Could They Truthfully answer that the would have truble handleing Life as well as befor H.R.S. was involved in our family
I'm not Trying to be smart but the H.R.S. said that they was hear to help- All I can thank is That I pray to God that They STOP HELPING MY FAMILY Before I have none Left.
So you See I do know some of H.R.S. and the pain of thair actions. And for this reason I ask you to please Let me Help you to show the next Victoms of H.R.S. that they are not alone even thow the H.R.S. Pick Children out of thair family as thow They wher wild flower- But the H.R.S. dos'nt stop to thank cut off a flower's Roots and its buitifull only for a short time befor it dies- And so it is with a Child They must Have Roots to grow- to blossom to be the God Giver flower to a Mother & father- I don't know if this makes any sence to you but it How I feel and from my Heart. I only make minimum Wage but please accept this $3.00 to help Save The American familys
(Please Let me know what I can do to help
I will do any thang!

Robert R. Olins

CHILD ABUSE "HYSTERIA" IN PERSPECTIVE



THE CURRENT POOR QUALITY SYSTEM DAMAGES THE 1,250,000 FAMILIES FALSELY INVOLVED IN THE SYSTEM.

1. Some "unfoundeds" may need help, just as some "foundeds" are innocent. They balance each other out.
2. U.S. News and World Report, April 27, 1987, American Humane Association statistics.
3. Public Welfare, Winter/87, Douglas Besharov "Contending with overblown expectations."
4. U.S. House of Representatives Select Committee on Children, Youth and Families by Douglas Besharov, March 3, 1987.

Inflated fears over child abuse may be endangering parents—and their children

The numbers game: When more is less

■ It's National Child Abuse Prevention Month, but Tim and Cindy Lapish aren't participating. Last September, the couple faced every parent's nightmare when Nathan, their 2-year-old son, fell down the basement steps of their Columbus, Ohio, home. Tim, a pastor at the Central Baptist Church, rushed the boy to a hospital, where an intern mistook a Kool-Aid stain on the boy's thigh for a bruise—and suggested that the Lapishes had abused Nathan. Within hours, a hospital social worker intervened, telling the Lapishes they needed psychological counseling. The couple was quickly vindicated, but the episode took a heavy toll. "My wife was so distraught," Pastor Lapish recalls, "that she had a miscarriage that evening right in the hospital."

Guilty until proven innocent: The Lapishes on their basement steps

Regrettably, the Lapish family's ordeal was no fluke. In 1985, authorities say, more than half the 1.9 million reports of child abuse and neglect were deemed unfounded, and 500,000 families—many like the Lapishes—were cleared of wrongdoing. Says Douglas Besharov, former head of the National Center on Child Abuse and Neglect: "We are talking about a massive and unjustified violation of parental rights."

★ Hyping the numbers

What's behind the barrage of accusations? Exaggerated fears about the extent of child abuse and neglect are largely to blame, some experts say. Indeed, such fears, together with the burgeoning number of child-abuse reports, have generated widespread public misunderstanding analogous to that surrounding the scare over missing children several years ago. At that time, officials warned that 1.1 million to 1.5 million children were "missing" each year, conjuring up images of widespread abductions by strangers, such as the kidnapping depicted in the TV movie "Adam." In fact, the vast majority of missing children are teen runaways or children taken by a parent in a custody struggle.

No one doubts that child abuse is a serious problem that warrants widespread vigilance. But some experts have begun to question whether public figures have generated unnecessary anxiety among parents over battered and molested children. In a public-education spot being aired this month, First Lady Nancy Reagan warns that "last year, over 1 million cases of child abuse were documented [and] for every case reported, 3 other cases were ignored." But Jane Burnley, who now oversees the National Center on Child Abuse and Neglect, says those numbers are misleading: "We're not talking about a couple of million children being scalded, maimed, starved and raped. The extreme cases in day-care centers and settings outside the home draw so much attention that they distort what's [really] happening."

VOCAL's Lowe: Parents have rights, too

That distortion, adds Burnley, is compounded by the way reports of abuse and neglect are commingled in national statistics. Of the 1.9 million reports of child abuse and neglect received nationwide in 1985, state social workers confirmed approximately 750,000 cases of child maltreatment, the American Humane Association (AHA) says. But more than half of those cases involved instances of neglect, with the most common problem being latchkey children left unsupervised at home.

By comparison, fewer than 20,000 confirmed reports—1 percent of the total received—involved a serious injury, like a burn or fracture. And while confirmed reports of sex abuse rose to 113,000 in 1985, they still involve a relatively modest number of children. Even when the figure for sexual abuse is quadrupled—to account for unreported instances of molestation—the statistics show that fewer than 75 out of 10,000 children are abused each year. Says Larry Brown, AHA's executive director: "We tend to look at the pathological behavior and miss the fact that most kids and their parents never get reported."

False alarms hurt kids ★

The disparity between the number of reported and confirmed cases of abuse involves more than just a concern for statistical integrity: Children have also been endangered by the deluge of unfounded reports. In many states, social workers are so flooded with a backlog of reports that they are unable to respond quickly to new complaints. In Virginia, for instance, case workers investigated 12,000 more complaints last year than in 1980. But because they had to devote so much time to checking unfounded complaints, delays mounted and they had less time to conduct thorough investigations. As a result, case workers wound up identifying 3,000 fewer abused and neglected children than in 1980. NY State Roberta Telfair, a social worker in Richmond, admits that "it's impossible for us to go out on every complaint within 24 hours. I know some county supervisors who don't assign cases for three weeks after they come in."

Part of the problem is that state regulations are so broad that social workers find they must

39%

BEST AVAILABLE COPY

BUT CLGS DAMAGE THE CHILD
AND THE FAMILY

investigate virtually every complaint to determine which ones are legitimate. In Kansas, for example, a parent can be charged with child abuse for "blaming ... or rejecting" a child. With abuse and neglect so ill-defined, operators of child-abuse hot lines are often unable to screen out irrelevant calls. Callers constantly press operators to investigate complaints about immoral lifestyles ("The parents drink and smoke pot all day") and indigent, backward families ("There's no running water in the house")—even though they may lack evidence that a parent has hurt or endangered a child. Doug Lowe, chairman of a parents' group called VOCAL (Victims of Child Abuse Laws), says that with public suspicions inflamed, many social workers are "plain terrified they'll be sued if they don't treat every report as valid."

Yet some child-safety specialists defend current reporting practices, insisting it's best to err on the side of caution. "It's simply a mistake," says Patricia Schene of the American Humane Association, "to equate an unfounded report with a false report. Often, social workers don't have time to fully investigate a complaint, or they may not open a case because the abusive incident seems atypical." To illustrate that point, officials cite statistics from Pennsylvania and Oklahoma, where roughly a third of all families involved in unfounded complaints have been reported again at a later date—and found guilty of abuse or neglect. "No child ever died from a social worker's evaluation," asserts Dr. Richard Krugman, a child-protection expert. "Kids die because we don't get to them."

Still, some child advocates question the wisdom of the come-one, come-all approach to prevention. "The pendulum will swing back toward public disinterest in child abuse if we don't start doing a better job of screening out inappropriate reports," argues Besharov, the former head of the national center. Adds Burnley, the center's current overseer: "In this country we can't afford to send a social worker into every home where someone thinks there might be a problem with a child." ■

by David Whitman

SPECIAL TASK FORCE URGES PRO-FAMILY POLICIES

A federal task force, headed by Education Secretary Gary Bauer, reported that ★ 20 years of "abrasive experiments" in social policy have damaged the American family.

After a seven-month study, the 22-member panel presented findings last November which showed that courts, schools and government have undermined family authority.

The task force called for new pro-family policies, including restrictions on welfare for unmarried teenage mothers. The report exhorts individuals to "demand the rectification of those laws [including liberal state divorce laws] which have allowed, and even encouraged the dissolution of the family."

Entitled *The Family: Preserving America's Future*, the 87-page document urges President Reagan to direct all federal agencies to file statements assessing the ability of their proposed policies to keep families intact across the nation.

Copies of the report are available by writing Focus on the Family, P.O. Box 500, Arcadia, CA 91006.

Sharon Satterfield, M.D. Director of the University of Minnesota's Program in Human Sexuality was part of a panel presentation at the Attorney General's Task Force Meeting, March 13, 1986 in Mpls., Minn.

When asked by one of the Task Force members, about the effects on those falsely accused, she replied, "We are presently doing a study on that...." and went on to state, "I think the MOST horrendous thing that can ever ★ happen to a family, more horrendous maybe than even being abused, is to be falsely accused. It is one of the most horrendous scenarios I've ever seen in my life. . . . the acute symptoms are similar to abuse. It's a post-traumatic stress disorder that these families go through."

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Tallahassee Democrat/Tues., May 13, 1986/9A

OPINION

False abuse charges can hurt

COMMUNITY
COLUMNIST
Brian Jory, Ph.D.

Something has gotten into Betty and Abigail, ages 9 and 11. They writhe, moan and scream as friends and relatives stand helplessly by. Experts are consulted who professionally diagnose the girls' malady. On the basis of the girls' statements, 40 people are charged, then tried. Evidence is introduced: One defendant was seen without undergarments, one had smiled funny at Betty, another was seen "flying on a stick across the face of the moon." Salem, Mass., 1692. Twenty witches are hanged.

Jordan, Minn., 1984. James Rud is accused of molesting two children. In exchange for a reduced sentence, he tells prosecutors of a sex ring involving at least 24 Jordan parents. Before investigation the parents are arrested, their children are placed in foster homes, given rectal and vaginal exams and grilled for days and weeks to "tell the truth so you can see your parents again." Many say what investigators want to hear, and eventually the prosecutor is hyping the press about molestation, drugs and "ritual murders" carried on by parents who "will never get their children back."

Months later Rud admitted he made the story up, but the damage was done. Children were violated, innocence snatched, families shattered. All by well-intentioned, but zealous, people. In a special report Minnesota's attorney general cited "many instances" where parents were arrested and charged with abuse at a time when their children "had not even been interviewed" or "even though these children denied the abuse through several weeks of investigation and separation from their parents."

Let's be frank. Most people formally accused of child abuse are probably guilty. And many people deserve to be prosecuted. Child abuse is a despicable crime and we must protect children from violence and exploitation. Along those lines our system is improving; 20 years ago 4,000 to 5,000 children were killed by their parents each year. Now the number is about 800.

But what about false accusations of child abuse? Public awareness of child abuse is high, and with reports doubling between 1980 and 1985, it only makes sense that false reports would skyrocket. The system is set up to treat each allegation as true until proven false; many children, along with their parents, are being abused by the system that is supposed to protect them.

Studies reported at the latest meeting of the American Psychological Association detailed the effects on children who are unfairly jerked from their families and forced into "counseling" to obtain details on their so-called abuse: fears, mistrust, distorted views of parents, fear of being alone with adults, and learning the role of victim. For parents, the trauma of being stripped of your children, forced into counseling, threatened with prison, and told you won't see your children until you confess is a nightmare.

Why would someone purposefully make a false accusation of child abuse? Revenge? Mental illness? Hysteria? A very common type of false allegation results from "no-fault" divorce laws that permit a divorcing parent to blame the other only when the custody of the children is in question. For a sick or vengeful spouse, an accusation that the other spouse is a child abuser or molester is a sure-fire way to win the war. Within hours, the accused spouse, usually the father, will face divorce court, juvenile court, maybe even criminal court. He can never prove he didn't do it, and unless he has a lot of money for lawyers, he can kiss the kids goodbye, sometimes forever.

In response to this burgeoning problem, The American Civil Liberties Union, an organization I don't always support, recently passed a resolution calling for stricter guidelines for child-protection workers who interrogate children and remove them from their homes. And a national organization, VOCAL (Victims of Child Abuse Laws) has grown like a brush fire. The aim of both VOCAL and the ACLU is simple: They oppose child abuse, but want to see protections of due process for accused persons and for the children. Today, a child can be snatched from his family, given "counseling" to admit the abuse and placed in foster care without any formal presentation of charges, without knowing who has made the accusation (by law, this is confidential), and without presentation of evidence.

If the child denies the allegations, some well-meaning but misguided social worker may interpret his play, his dreams, or his behavior to speak on his behalf, to show that he is indeed an abused child. If the child continues to deny the abuse, he will be given more "counseling." Two weeks ago Judge Donald O. Hartwell issued an administrative order for our courts that would prevent attorneys, police and child-protection workers from interviewing an abused child without two days written notice to their guardian ad litem. The order calls for one initial interview, which would be attended by all members of the child-protection community. This is a good move toward protecting both children and their parents and would stop the current practice of badgering children to elicit details of their abuse.

What should you do if you are accused of child abuse? If you have indeed mistreated, injured or exploited your child, you should cooperate fully with the child-protection workers to receive treatment and parent education to ensure that the abuse stops and your children are safe – from you. However, if you have not abused or exploited your child, you should be cordial to protection workers, but have someone else there when you talk to them because what you say may be used against you in court. Then get a lawyer who will protect your rights, and your children. Be sure your lawyer is not afraid to be adversarial with the child protection system.

We should never condone child abuse or exploitation, but we should recall the words of James Madison: "It is proper to take alarm at the first experiment on our liberties."

Brian Jory is a family educator, counselor and researcher

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A SUMMARY

Coleman Commission Report
ON PERMANENCY PLANNING

Almost every day the newspaper headlines tell us about new cases of child abuse. In the past few years, the public has been made aware that child abuse is legitimately called an epidemic.

Last year, more than 41,000 reports of child abuse in Michigan were investigated by protective services staff. It was found that more than 26,000 Michigan children were substantiated victims of child abuse or neglect.

The Coleman Commission report is about the problems experienced by many of these children. It is not about the beatings that they received at the hands of abusive parents. This report is about what the juvenile justice and child welfare systems do -- and neglect to do -- for abused children.

To be emotionally healthy, children need to be raised in families. That is a simple statement, documented by years of research in the fields of child development and psychology.

Society's reaction to the situation of child abuse has often been to take the children away from their family.

Protecting a child from abuse is certainly the noble and right thing to do -- but it must be ascertained that doing so will make the child's life better, not worse.

How is the child's life made worse by well-intentioned intervention?

- When the bond between mother and child is broken by making visits few and far between.
- When brothers and sisters are separated into different foster homes or institutions.
- When a child is shifted from foster home to foster home, worker to worker, and school to school.
- When parental rights are terminated and the effort to find a new, adoptive family is lax.
- When the legal system takes its time, instead of pursuing the child's best interest.
- When an effort is not made to prevent abuse or keep families together in the first place.

It cannot be acceptable procedure to let children drift in the limbo of the legal and child welfare systems for years and years. Thousands of Michigan's children cannot be allowed to grow up without family ties. The belief must be fostered that it is every child's inalienable right to belong in a family.

In late 1982, Justice Mary S. Coleman called together an interdisciplinary group of Michigan's experts in the field of child welfare. The group included juvenile court judges, attorneys, social workers, volunteers, political leaders and adoptive parents.

She asked the group to identify the barriers that allowed children to become "stuck" in the system, rather than nurtured in healthy families. She asked the group to come up with recommended solutions to these problems.

The Coleman Commission developed a 41-page report of findings. It is summarized in this issue of "Michigan's Children."

THE FACTS...
in black and white

There are 9,624 abused and neglected children in out-of-home placements supervised by the Michigan Department of Social Services (DSS). Approximately 1,800 abused and neglected children are being supervised by juvenile courts in out-of-home placements.

There are 2,634 children who have been in DSS supervised foster care placements for more than two years. Of the children in placement for more than five years, 63 percent are black, hispanic, or other minorities. Close to a thousand children have had four or more placements in the last three years.

The economic costs of maintaining thousands of Michigan's children in foster or institutional care is conservatively estimated at more than $75 million in tax dollars. The social costs are even worse.

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M.S.P.
"MALIGNANT MOMS"
THE FINAL PIECE IN THE PUZZLE

MSP (Munchausen's Syndrome by Proxy) is the foundation for understanding the psychodynamics of false allegations. And, why children get hurt and "lost in the shuffle," and, the extreme of ignoring court orders and hiding children with strangers in an underground "railroad."

"MSP is a malignant form of parenting." [1]

The British Medical Journal recognized MSP as "a bizzare form of child abuse." [3] The Lancet Journal as "The hinterlands of child abuse." [4] and an article by a Navy doctor as "a subtle and newly indentified form of child abuse.[2]

The mother is the perpetrator in all known cases. [1,3,4]

"Malignant Moms" are seriously ill. The mother intentionally harms the child using them as a pawn, for her own emotional gain. [1,2,3,4,5,6] (This model also fits certain physicians and attorneys participating for their own "glory" or "financial gain".)

"THE PROFESSIONAL PARTICIPANTS IN MSP" (Munchausen Syndrome by Proxy) outlines how social services, police, lawyers, judges and doctors become unwitting accomplices to mothers harming their children for their own emotional gain. [1] Attorney General Butterworth's exwife was a prime example of this form of MENTAL ILLNESS.

The mother gives the appearance of a good care-taker and being friendly, but this is only superficial and fools professionals. [1, 2]

"There is no known successful treatment" [1] and "MSP is a severe personality disorder; conventional psychotherapy is not effective."[2]

The medical recognition of MSP since 1977 applies equally well to all the other major national cases outlined to you previously in "Divorce Custody: False Allegations of Child Abuse."

This severe national social problem and bizarre form of child abuse has yet to be recognized and effectively handled by social services and the courts.

Foot notes in MSP: Part II next week

8B ST. PETERSBURG TIMES ■ TUESDAY, DECEMBER 2, 1986

Caseworker turnover hurts child services

Associated Press

ORLANDO — Workers assigned to investigate child abuse, neglect and delinquency are quitting their jobs at a yearly rate of 50 percent to 80 percent, leaving a gap in the state's child protection services.

Officials say the caseworkers are underpaid, undertrained, overworked and lack the resources necessary to perform their high-pressure jobs.

The result is that they are leaving the State Department of Health and Rehabilitative Services or moving to better-paying jobs in administration, away from the pressure and from the children who need their help.

Ellen Hoffenberg, executive director of the Governor's Constituency for Children, told the *Orlando Sentinel* that statewide turnover among 574 caseworkers ranged from 35 percent to 50 percent a year. In South Florida, the turnover often reaches 80 percent, she said.

HRS records show reports of child abuse increased by 168 percent in the last 10 years, rising from 38,704 in 1976 to 103,820 in 1985.

Ms. Hoffenberg said the problem lies in hiring college-educated workers for low salaries, giving them little training and resources and then asking them to juggle a burdensome caseload of child abuse, neglect or delinquency.

"It's a pressure cooker and we're just setting the system up for failure," she said.

The Legislature approved pay increases during a special session two years ago, but the raises, which took effect in July, increased salaries from about $13,000 to $16,000 a year, still far below the pay of most professionals.

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Circuit Judge William Gladstone of Dade County has served as an adviser to Gov. Bob Graham on juvenile justice programs. He blamed tight-fisted lawmakers and taxpayers for the turnover. Florida spends less on social services than any other state.

"It's a form of child abuse," Gladstone said. "The biggest abusers of children in the state are the taxpayers and the legislators who represent them."

This year in Brevard County, HRS subdistrict administrator Virginia Donigan said, 18 caseworkers handled more than 6,500 cases of delinquent, abused or neglected children. That's nearly 361 cases apiece for the year.

Turnover in caseworkers was 84 percent, she said.

Ms. Donigan said nearly half of the 3,330 abuse reports in Brevard County between September 1985 and September 1986 were unfounded, but even false reports may take months of investigation.

> **Officials say the caseworkers are underpaid, undertrained, overworked and lack the resources necessary to perform their high-pressure jobs.**

Lynn Vasicek, senior court officer with the 18th judicial circuit in Titusville, said rapid turnover can have tragic consequences.

"What it means is that caseworkers are often too unfamiliar with the children and their problems to work out an appropriate solution," Vasicek said. "And when you make a mistake with a human life, you can't fix it."

John Falcone, a former HRS caseworker in Osceola County, said he quit in May to escape the pressure and reassess his career plans.

Falcone said he remembered working from 8 a.m. to 2 a.m. many days. He said HRS was not only underfinanced and understaffed, but sometimes paralyzed with bureaucracy as well.

"I was in it to help kids, but a lot of times I saw them fall through the cracks because of bureaucracy when a little flexibility might have saved them," Falcone said.

Withdrawing the nurturing touch

By BOB BAKER
Los Angeles Times

LOS ANGELES — At a child care center, a little girl runs up to a young male staff member, and asks joyfully, "Tickle me!" He thinks about it for a moment and tells her no.

A veteran teacher employed at two nursery schools has a new instructional technique: When she wants to compliment a child, she no longer adds a pat on the shoulder. Instead, she enthusiastically tells the girl or boy, "Give yourself a pat on the back," and illustrates by tapping her own shoulder with a palm.

A husband and wife are in bed when their 5-year-old daughter comes to the door. She's been frightened by a nightmare and wants to crawl into bed with them. The father makes a point of asking her to crawl in on mom's side. He is concerned about what the girl might say at her preschool, or to "outsiders who would not understand."

■ ■ ■

These vignettes point up society's new-found concern with child sexual abuse and how it is changing traditional relationships between adults and children.

A surprising number of adults — worried that an innocent gesture of affection, friendship or courtesy might be misread as a sexual overture — are pulling back from youngsters, according to interviews with day-care workers, teachers, parents and child development specialists.

In many small but telling ways, grown-ups are increasingly on guard. The most cautious of them now regard a young child, once a sexually neutral object, as a walking time bomb: a potential accuser, steeped in public service advertisements and educational films that urge him or her to be wary of strangers, to report anything suspicious, to say "It's my body," to say "No!"

As a result of this atmosphere, some children appear to be receiving fewer affectionate "nurturing" touches than they used to get in day care centers, elementary school classes and youth groups.

THIS CHANGE disturbs many people involved with child development because it clashes so directly with a decades-long consensus that an atmosphere of physical affection is critical to a child's psychological growth.

Adult standoffishness is "the one clear, short-term loss" in the war against sexual abuse of children, said Dr. Michael Durfee, a child psychiatrist who coordinates the Los Angeles County Health Department's child abuse prevention program.

"Things that are common sense have gotten confused with sexual abuse," said Dr. Edward Weiss, a Washington, D.C., child psychiatrist who frequently testifies in child custody cases involving allegations of molestation.

Added Lory Freeman, an Oregon author whose book *It's My Body* counsels children on how to avoid molesters: "I think a lot of people are misinterpreting . . . and holding back. It has made me feel sad." Freeman says that "to help keep things in perspective," her next children's book will be about "touching as a basic need, putting it in the same category as warmth and food."

A surprising number of adults — worried that an innocent gesture of affection, friendship or courtesy might be misread as a sexual overture — are pulling back from youngsters.

Shayla Lever, director of the Los Angeles Unified School District's child abuse office, routinely urges teachers to avoid becoming "an emotional refrigerator to the kids" in an effort to protect themselves from being falsely accused.

"To deprive children of warm, nurturing touches is just as abusive as intrusive touching," Lever said during a recent lecture to a group of teachers who came to hear tips on identifying signs of abuse among students. "An arm around the shoulder, holding hands — that is not intrusive touching." Besides, she added, "if you're going to be (falsely) accused, you're going to be accused whether you touched the child or not."

At one Southern California day-care center, the staff now changes diapers with the children standing up, rather than lying down, simply because it gives the appearance of less intimate contact.

Frances Haywood, a vice president of United Teachers of Los Angeles, the union representing the majority of the Los Angeles school district's 26,000 teachers, said she routinely advises teachers to withhold the pats, hugs and kisses long employed by many elementary school instructors.

"We tell our members, 'Don't touch. Stay away,' " she said.

Some parents, too, are making adjustments in everyday life.

A father, for example, on a recent outing with his daughter's Brownie troop, found himself trying hard to make sure he did not touch any of the girls.

Irwin Hyman, who heads the National Center for the Study of Corporal Punishment and Alternatives at Temple University in Philadelphia, has felt a similar self-imposed chill.

As he jogs in his neighborhood on weekday mornings, Hyman stops to chat with first-graders and second-graders who wait at a bus stop. These days, though, "I'm having second thoughts," he said.

"It's really something: I've been in this game for 27 years, I'm known nationally as a child advocate, and I'm wondering if one of these little girls is going to go back home and say, 'This strange man is getting friendly with me.' "

CHILD AND family psychologists say such reactions are a predictable consequence of several heavily publicized molestation cases, including the McMartin case, in which seven defendants are accused of 207 counts. Media coverage of this and a host of other molestation cases against defendants ranging from teachers to ministers to youth workers has fueled a nationwide campaign to make children and parents more vigilant.

Most often mentioned as inhibiting influences in California are 1984 news reports of two suspects who were cleared: a Fullerton principal who was suspended from his job and charged with molestation for cleaning up a 5-year-old girl who soiled herself, and a state Justice Department official charged with molesting a 9-year-old girl during his daughter's birthday slumber party.

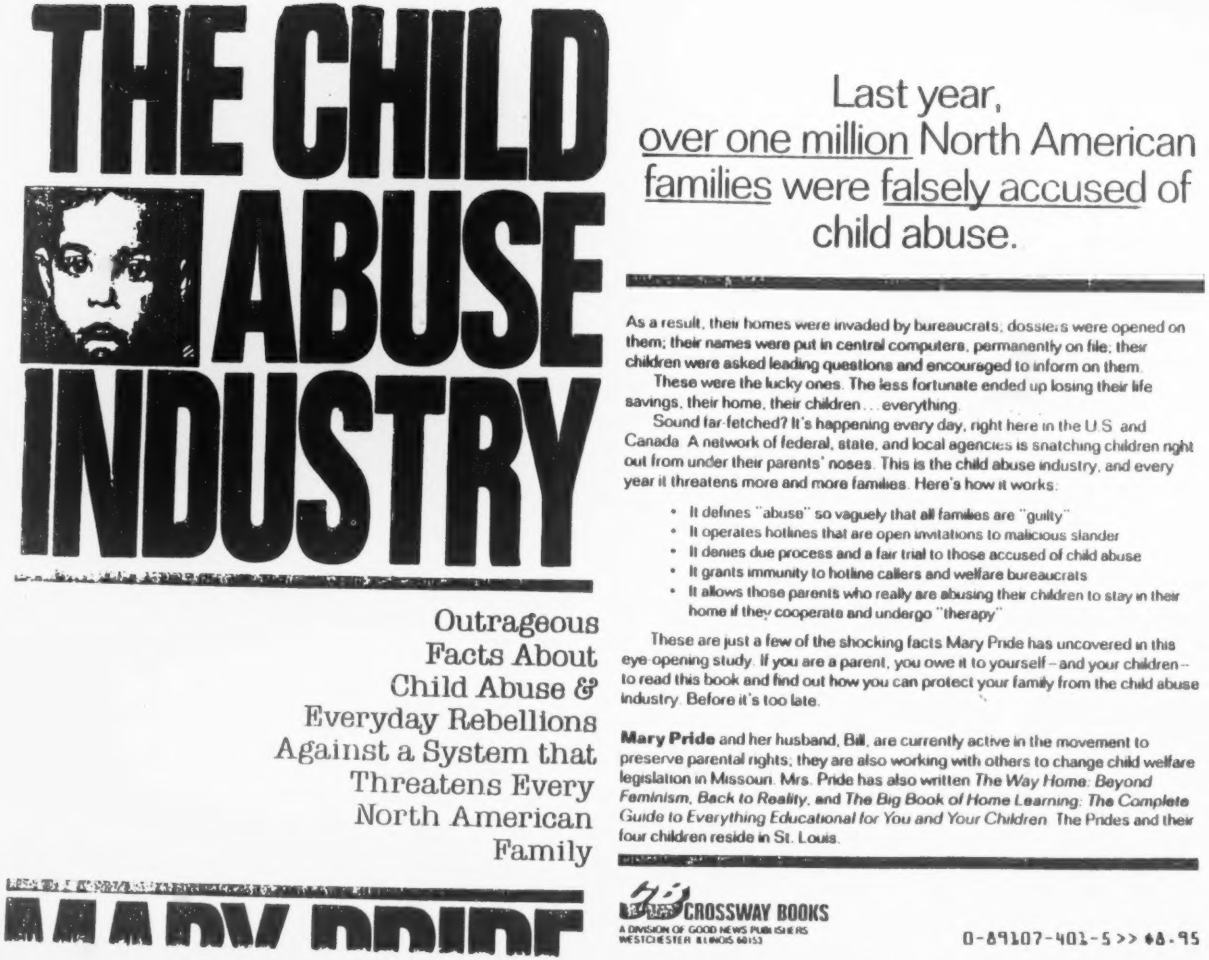
Prosecutors dropped charges against the principal shortly before his trial began, but he was subsequently demoted to a teaching position. The state official, 38-year-old Brian Tougher, a special assistant attorney general in Sacramento, was acquitted by a jury in January.

Many child care professionals and other adults blame part of their anxiety on the burgeoning wave of news, entertainment and school programs designed to educate children about the dangers of sexual abuse. They worry that in some cases, it is breeding paranoia and misinterpretation.

"Some of the school programs are simplistic, superficial," said Joel Milner, a clinical psychologist specializing in physical child abuse at Western Carolina University. "My general feeling is it's a bit crude. We're going willy-nilly. Some of the programs may distinguish bad touching from good touching but not tell a child that it's all right for him to touch himself."

Milner said he is troubled by the thought of school child abuse prevention programs being implemented in cities or states that have resisted sex education programs.

"To go into a deviant area with no content is like saying, 'I'm going to teach you about part of calculus but I'm not going to teach you about 2 plus 2,' " he said.



THE CHILD ABUSE INDUSTRY

Outrageous
Facts About
Child Abuse &
Everyday Rebellions
Against a System that
Threatens Every
North American
Family

MARY PRIDE

Last year,
over one million North American
families were falsely accused of
child abuse.

As a result, their homes were invaded by bureaucrats; dossiers were opened on them; their names were put in central computers, permanently on file; their children were asked leading questions and encouraged to inform on them.

These were the lucky ones. The less fortunate ended up losing their life savings, their home, their children . . . everything.

Sound far-fetched? It's happening every day, right here in the U.S. and Canada. A network of federal, state, and local agencies is snatching children right out from under their parents' noses. This is the child abuse industry, and every year it threatens more and more families. Here's how it works:

- It defines "abuse" so vaguely that all families are "guilty"
- It operates hotlines that are open invitations to malicious slander
- It denies due process and a fair trial to those accused of child abuse
- It grants immunity to hotline callers and welfare bureaucrats
- It allows those parents who really are abusing their children to stay in their home if they cooperate and undergo "therapy"

These are just a few of the shocking facts Mary Pride has uncovered in this eye-opening study. If you are a parent, you owe it to yourself—and your children—to read this book and find out how you can protect your family from the child abuse industry. Before it's too late.

Mary Pride and her husband, Bill, are currently active in the movement to preserve parental rights; they are also working with others to change child welfare legislation in Missouri. Mrs. Pride has also written *The Way Home: Beyond Feminism*, *Back to Reality*, and *The Big Book of Home Learning: The Complete Guide to Everything Educational for You and Your Children*. The Prides and their four children reside in St. Louis.

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April 22, 1988

The Honorable Representative George Miller
The Honorable Representative Thomas J. Downey
c/o Robert J. Leonard
Chief Counsel
Committee on Ways and Means
U.S. House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Dear Representative Miller, Representative Downey, Committee Members, and Counsel Leonard:

We have been foster parents in Texas for the last seven years. In that time we have had five children ranging in age from 3 months to ten years. The children came to us because of either neglect, abuse, or both. Their family situations defied belief and the pain and suffering they experienced should never happen to anyone, let alone children who can neither defend themselves nor understand why this is happening. Luckily, three children were adopted into wonderful homes, one went home and was shortly back in foster care in another state, and one child, a beautiful, healthy 14 month old, died under conditions still labeled a probable homicide. The pain to our family is still like losing our own child and brother.

Sometimes short cuts are taken in an effort to relieve overworked caseworkers, therefore we are submitting this letter as testimony for the Joint Hearing on Foster Care, Child Welfare and Adoption Reforms. We would like to address the issue of Services and Case Management for Children in Foster Care. We have seen first hand what happens to the children when there is not prompt and thorough investigation and care for these children. We would like to see the following measures enacted:

1) We would like more stringent and uniform requirements placed on parents in order for them to have the children returned. Currently, the parents only need to state an interest in having the children back without showing that they are truly capable, or willing, to care for the long-term needs of the child. Too often we have seen parents say they will care for the child and then never live up to their promises. If they had to go to long-term classes and counselling, then they would be showing a commitment towards having the children returned.

2) We feel that until the home can be proven safe, the children should stay in foster care. Too often the guilty party is never identified because the family members are too afraid or emotionallly dependent on the abuser to say anything. The cycle repeats and frequently gets worse because the abuser feels nothing will happen to them.

The abuser becomes more bold because nothing happens to them and all the time the children live in hurt, fear, and with a role model that they often become as adults. The cycle has to stop somewhere and the children have a right as human beings to be safe and secure.

3) We feel that foster parents should have a formal role in determining what happens to the children when their case is reviewed by the caseworkers and judges. Currently, it is different in each court. We feel that since the foster parents have lived with the child leading up to the hearing that they know the child best. While the conscientious caseworkers and judges do involve foster parents, we feel formalizing the process will make sure the foster parents' opinion is heard and a part of the official record.

4) Most importantly, we feel that funding for these programs should not be cut, and if possible increased. We have seen dedicated workers get burned-out, because their case loads are so large with no chance to catch up. We know that the department is frugal and cost effective, but they shouldn't skimp on needed staff or training. We have seen the hundreds of thousands of dollars spent on medical and psychological care of these children. A little spent on prevention would avoid millions spent on care; "You can pay me now, or pay me later.", according to the t.v. commercial.

We want to thank you for considering this testimony. We would appreciate as you are reading this to imagine that you are a young child who has just been abused or neglected and you do not know where to turn or why this is happening. Consider how you would feel both physically and emotionally; it is a very lonely feeling. We commend you for investigating this problem and we urge you to do everything you can to protect these children.

Respectfully yours,

Steve & Patti Werner

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